



Planning and Regulatory Services Committee

Tuesday, 29 January 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, 29 January 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 14 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 Minutes

- | | |
|---|----------------|
| 4a) Minute of Meeting dated 13 November 2018 | 7 - 20 |
| 4b) Minute of Special Meeting dated 22 November 2018 | 21 - 32 |
| 4c) Minute of Special Meeting dated 18 December 2018 | 33 - 36 |

5 Written Questions **

Planning Applications

Guidance Note	37 - 38
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6	Planning Application 18/01209/APP	39 - 154
	Report by Appointed Officer	
	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	
7	Planning Application 18/01163/APP	155 - 200
	Report by Appointed Officer	
8	Planning Performance Framework 2017-18	201 - 252
	Report by Corporate Director (Economic Development, Planning and Infrastructure)	
9	Planning Etc. (Scotland) Act 2006 - Scheme of Delegation	253 - 262
	Report by the Corporate Director (Economic Development, Planning and Infrastructure)	
10	Development Plan Scheme 2019 - Moray Local Development Plan 2020	263 - 276
	Report by the Corporate Director (Economic Development, Planning and Infrastructure)	
11	Aligning Planning and Roads Construction Consent	277 - 282
	Report by the Corporate Director (Economic Development, Planning and Infrastructure)	
12	Tree Preservation Orders	283 - 294
	Report by the Corporate Director (Economic Development, Planning and Infrastructure)	

13 Question Time ***

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

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

14 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;

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**

13 NOVEMBER 2018

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors D Bremner (Chair), A Patience (Depute Chair), G Alexander, J Cowe, G Cowie, P Coy, J Divers, C Feaver, L Laing, M Macrae and A McLean.

APOLOGIES

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

IN ATTENDANCE

The Head of Development Services, the Manager (Development Management), Mr A Burnie, Principal Planning Officer, Mr N MacPherson, Principal Planning Officer, Mrs D Anderson, Senior Engineer (Transport Development), the Consultancy Manager, 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. Declaration Of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

2. Exempt Information

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

Paragraph No. of Minute

Paragraph No. of Schedule 7A

16, 17 and 18

Information, which if disclosed to the public, would reveal that the Authority proposes, for the purpose 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.

3. Minutes

The Minute of the Planning and Regulatory Services Committee dated 18 September 2018 was submitted and approved.

Under reference to paragraph 3 of the Minute of the Planning and Regulatory Services Committee dated 25 September 2018, regarding safeguarding and supporting biodiversity, Councillor Feaver stated that she had spoken about habitats such as wetlands and wet grass lands and asked that the Minute be amended to reflect this.

In response, the Chair agreed to arrange to have the Minute amended accordingly.

Thereafter the Minute was approved subject to an amendment to reflect Councillor Feaver's reference to wetlands and wet grass lands.

4. Written Questions

The Committee noted that no written questions had been submitted.

5. Planning Application 18/00811/APP

Ward 8: Forres

Development of a 4.7 hectare site to the north of the existing distillery to deliver 11 new cask warehouses, new access, formation of pond and associated landscaping at Land adjoining Benromach Distillery, Waterford Road, Forres for LDN Architects LLP

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of the development of a 4.7 hectare site to the north of the existing distillery to deliver 11 new cask warehouses, new access, formation of pond and associated landscaping at Land adjoining Benromach Distillery, Waterford Road, Forres for LDN Architects LLP. The report also advised that members of the Committee visited the site of the application on 9 November 2018.

The Committee noted that the application had been referred to Committee as the application is a "major" development as defined under the Hierarchy Regulations

2008 (and the approved Scheme of Delegation) because the gross floor space of the development exceeds 10,000 sqm and/or the site area exceeds 2 ha.

During discussion, it was noted that a number of trees would require to be felled to allow the development to proceed and although the report stated that further tree planting was to take place there was concern that the immature trees would not provide adequate screening for the warehouses.

In response, Mr MacPherson, Principal Planning Officer advised that the proposed plan in relation to landscaping showed that the trees to be planted on edge of site would be of a larger species.

Councillor Feaver raised concern in relation to whether the trees proposed in the plan would provide adequate screening for the new development and moved that the Committee agree to grant planning permission in respect of Planning Application 18/00811/APP, as recommended, subject to an additional condition that any tree planting for screening would be of a size that will grow at a reasonable rate to nestle the warehouses. This was seconded by Councillor Macrae.

Councillor Cowe, in recognising that there had been no objections to the application and as it complied with policy PP1 within the Moray Local Development Plan 2015 in relation to sustaining economic growth, moved that the Committee agree to grant planning permission in respect of Planning Application 18/00811/APP, as recommended subject to the conditions detailed within the report.

Given the concerns raised in relation to tree planting, the Manager (Development Management) suggested that Condition 8 regarding landscaping and planting be amended to include the requirement for a detailed specification in terms of the actual planting sizes to be of a larger planting standard.

Councillors Feaver and Macrae were both in agreement with the suggested amendment to condition 8 from the Manager (Development Management).

Councillor Cowe, having considered the response from the Manager (Development Management) agreed to withdraw his motion.

Following consideration, the Committee unanimously agreed to grant planning permission in respect of Planning Application 18/00811/APP as recommended, for the following reasons subject to an amendment to condition 8 to include the requirement for a detailed specification in terms of the actual planting sizes to be of a larger planting standard.

1. Prior to the commencement of any part of the development the following details shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
 - (i) Either, written confirmation to be provided that there will be no barriers or gates on the proposed access leading to Waterford Road or, provision of details of any security barrier or gating at the proposed access to the development including setback distance from the road;
 - (ii) Details of any external signage proposed at the boundary of the site fronting onto the public road including siting, dimensions and design;

- (iii) A detailed drawing (scale 1:500 min) shall be submitted showing provision for a dropped kerb crossing of the proposed access onto Waterford Road together with tactile paving, landscaping, fencing, gating and visibility of the crossing on the approach to the crossing from the access;
- (iv) a detailed plan (scale 1:500 minimum) showing provision of a 2.0 metre footway on the northeast side of Waterford Road from a point opposite the north side of the new link road and extending southwards to connect with the existing footway. Provision also for dropped kerb crossing and tactile paving to provide crossing to the west side of Waterford Road at three points, one to the south of Waterford Circle and one each to the north and south sides of the new link road; and thereafter the footway and crossings must be completed in accordance with the approved plans prior to the commencement of the second warehouse within the development.
- (v) Detailed plan(s) (scale 1:500) showing the existing and proposed road drainage on Waterford Road for the full extent of the site frontage shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority and thereafter the roads drainage infrastructure shall be provided in accordance with the approved details prior to the commencement of any other part of the development and thereafter the proposals shall be completed in accordance with the approved details.

Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interests of road safety, an acceptable form of development and the provision of information currently lacking from the submission.

2. Notwithstanding the details submitted (which are not accepted) prior to any development works commencing the following detailed drawing shall be submitted for approval by the Planning Authority. The detailed drawing shall show (scale 1:500 minimum scale) a visibility splay 4.5 metres by 70 metres in both directions at the proposed junction onto Waterford Road, showing boundary walls/fences/hedges set back behind the required visibility splay, and a schedule of maintenance for the splay area shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority and thereafter, the visibility splay shall be provided in accordance with the approved details and maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.

Reason: In the interest of road safety and the provision of information currently lacking from the submission.

3. Notwithstanding the details submitted which are not accepted, prior to the commencement of any part of the development a detailed phasing plan for the proposed development including the warehouses and the road infrastructure to be provided within each phase shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority and thereafter the development shall be completed in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interest of road safety and the provision of information currently lacking from the submission.

4. Prior to commencement of each phase of the development a Construction Traffic Management Plan shall be submitted for approval by the Planning Authority in consultation with the Roads Authority and thereafter the construction works shall be completed in accordance with the approved Construction Traffic Management Plan.

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

5. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Friday, and at no other times out with 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 out with the permitted/stated hours of working.

Reason: To control/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

6. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

The programme of works must be submitted to and approved in writing by the Council, as Planning Authority in consultation with Aberdeenshire Council Archaeology Service.

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

7. Prior to the commencement of development a site specific Construction Environment Management Plan (CEMP) shall be submitted to, and approved in writing by, the Council, Planning Authority in consultation with SEPA. All works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In order to prevent pollution of the environment and ensure the sustainable management of materials and waste.

8. All landscaping and mitigation planting shall be implemented and maintained in accordance with the approved landscaping plan entitled 'Landscape Proposals Plan drawing number 981 BD LP 01 Rev A and accompanying documents entitled 'Outline Landscape Specification and Maintenance – May 2018, prepared by landscape architects Horner and MacLennan' and 'Arboricultural Method Statement dated 24th May 2018, prepared by ROVAR Environmental Consultants' with the exception of the supply height of the trees specified in the planting schedule in both documents. Prior to any work commencing a revised supply height planting schedule detailing use of a larger planting standard for new trees to be used shall be submitted to and approved in writing by the local planning authority. All landscaping shall be implemented in accordance with the approved revised supply height planting schedule.

Reason: In order to ensure the provision of the landscaping to the development to minimise the visual impact on neighbouring residences and the wider landscape.

9. Prior to the commencement of development, a detailed phasing plan for the proposed development showing the abovementioned landscaping and mitigation planting to be provided within each phase shall be submitted to and approved by the Council, as Planning Authority; and thereafter the development shall be completed in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that acceptable landscaping and mitigation planting is provided for each phase of the development as detailed phasing information is currently lacking from the submission.

10. Prior to the commencement of development, details of all artificial lighting to be installed on the site for each phase shall be submitted to and approved by the Council, as Planning Authority. This shall be designed and sited to minimise the potential for light pollution, glare effect and nuisance to protect the amenity of surrounding neighbouring housing. The approved lighting arrangements shall be installed prior to each respective phase is complete or building within that phase is occupied.

Reason: To ensure the provision of an acceptable form of development and to protect the amenity of nearby residential premises, as these details are currently lacking from the application.

11. All surface water drainage infrastructure hereby approved shall be installed in accordance within that detailed within the approved drainage layout plan, accompanying Drainage Impact Assessment and SUDS Strategy dated August 2018 (prepared by Caintech) and additional supporting drainage information unless otherwise agreed with the Planning Authority, in consultation with the Flood Risk Management Section.

Reason: To ensure the provision of acceptable drainage infrastructure to the development.

12. Prior to the commencement of development, a detailed phasing plan for the proposed development including the warehouses and drainage infrastructure (as detailed within the abovementioned DIA and SUDS Strategy) to be provided within each phase shall be submitted to and approved by the Council, as Planning Authority in consultation with the Flood Risk Management Section;

and thereafter the development shall be completed in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority in consultation with the Flood Risk Management Section.

Reason: To ensure the provision of acceptable drainage infrastructure for each phase of the development, as detailed phasing information currently lacking from the submission.

13. No development shall commence until a Construction Phase Surface Water Management Plan (CPSWMP) has been submitted to and approved in writing by the Council, as Planning Authority (in consultation with the Moray Flood Risk Management Section), and all work shall be carried in accordance with the approved CPSWMP.

Reason - In order to ensure that surface water from the development is dealt with in a satisfactory manner that avoids flooding and pollution, and as these details are currently lacking from the current application.

- 6. Proposed Wind Farm comprising of 7 Wind Turbines 6 of a maximum height base to tip not exceeding 149.9m and 1 of maximum height not exceeding 134m, external transformer housing, site tracks, crane pad foundations, underground electricity cable, control building, temporary construction and compound, 2 borrow pits, associated works/infrastructure and health and safety signage at, Paul's Hill II Wind Farm, Ballindalloch, Moray (Planning Reference 18/00523/S36)**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider a proposed response to a request for consultation from the Scottish Government – Energy Consents Unit (ECU) relating to an application received by them for consent under Section 36 of the Electricity Act 1989 (which includes deemed planning permissions) for the extension of Pauls Hill windfarm.

Following consideration, the Committee agreed:

- (i) to note the contents of the report, as set out in Appendix 1, including the conclusions regarding the planning merits of the development which take into account the Moray Local Development Plan 2015 and all material considerations including the presence of an existing windfarm at Pauls Hill;
- (ii) to respond to the consultation request from the Scottish Government lodging an objection to the proposed development on the basis of the recommendations set out in Appendix 1, in particular in terms of the considered unacceptable landscape and visual impacts that would arise from the position and height of proposed turbines on the site;
- (iii) that no additional comments on the proposal should be submitted;
- (iv) that in the event of approval and prior to determination, the Council request it be consulted on proposed conditions to be attached to any consent; and
- (v) that in the event of approval, no additional expansion of the rock cut at the existing windfarm entrance should be permitted (if this is intended to facilitate turbine delivery) as the details provided are not clear on this matter.

7. Planning Reference - 18/00954/S36 – Construct and Operate an Offshore Windfarm within the Moray Firth, known as Moray West Windfarm

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider the consultation received from Marine Scotland in relation to the proposed variation of 3 Electricity Act 1989 Section 36 consents for an offshore windfarm submitted by Moray West Offshore Windfarm. This Section of the Electricity Act relates to consenting offshore electricity generation.

During discussion, it was noted that community benefit had been received as a result of the Beatrice Offshore Windfarm and clarification was sought as to whether the Council could guarantee community and economic benefit as a result of the Moray West Offshore Windfarm.

In response, the Head of Development Services advised that it would not be appropriate to respond to Marine Scotland in relation to community and economic benefit as the consultation response could only take into consideration the planning merits of the application however suggested that he write separately to the Applicant expressing the views of the Council regarding economic and community benefit for Moray in terms of offshore windfarms. This was agreed.

Councillor Feaver was of a view that the application would have a visual impact upon the seascape of Moray. Furthermore, she was not convinced there would be economic benefit for Moray and therefore moved that the Committee respond to the consultation lodging an objection to the proposed development. On failing to find a seconder, Councillor Feaver's motion fell.

Councillor A McLean moved that the Committee agree the recommendations as printed within the report. This was seconded by Councillor Macrae.

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

- (i) to respond to the consultation to raise no objection to the proposed offshore windfarm development and instruct Officers to respond to Marine Scotland to that effect; and
- (ii) that the Head of Development Services write to the Applicant expressing the views of the Council regarding economic and community benefit for Moray in terms of offshore windfarms.

8. 18/01132/PAN – Proposal of Application Notice for residential development and associated infrastructure at Speyview, Aberlour

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 24 August 2018 by Springfield Properties PLC.

Councillor Macrae stated that he recalled a recent planning application, located nearby the site in question, that had been considered by the Moray Local Review Body and subsequently rejected on the grounds that the visibility splay was not sufficient to access the A95 and asked that the planning application include a

transportation assessment to ensure that adequate visibility splay(s) are achieved when entering and exiting the site onto the A95 trunk road.

In response, Mr Burnie, Principal Planning Officer agreed to feed this observation back to the Applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the planning application include a transportation assessment to ensure that adequate visibility splay(s) are achieved when entering and exiting the site onto the A95 trunk road; and
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

9. 18/01309/PAN - Proposal of Application Notice – Proposed mixed use development with commercial/craft units, community spaces and dwellings, landscape/ecological enhancement proposals and new private road to serve development at North Whins, Findhorn, Forres

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 3 October 2018 by Makar (agent) on behalf of Duneland Limited.

During discussion, Councillor Feaver stated that she had received a number of representations from members of the Community in relation to the expansion of housing and industrial units into the dunes; the clearing of the dune landscape that had already commenced, where large tracks have already been cleared prior to the completion of an ecological survey; the stability of the dune system including gorse planting and how much more of the dune system would need to be removed and destroyed to keep the land safe and stable; the expansion of housing and industrial buildings within a community where there is a lack of proper infrastructure; whether this development would be like a previous development which was only available to people who agreed to follow the founding principles of the community including requirements to provide affordable housing; settlement creep and over development of the area.

In response, Mr Burnie, Principal Planning Officer advised that the site was within the settlement boundary of Findhorn and a formal ecological survey is required to be submitted with any planning application for the site. He further advised that the local community within the Findhorn area would have the opportunity to consider and comment further the proposals at a planned consultation event to be held at the end of November 2018.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the prospective applicant note the following points raised by the Community via the Committee:

Concern regarding:

- a) the expansion of housing and industrial units into the dunes;

- b) the clearing of the dune landscape that has already commenced, in particular where large tracks have already been cleared prior to the completion of any ecological survey;
 - c) the stability of the dune system including gorse planting and how much more of the dune system would need to be removed and destroyed to keep the land safe and stable;
 - d) the expansion of housing and industrial buildings within a community where there is a lack of proper infrastructure;
 - e) whether this development would be like a previous development which was only available to people who agreed to follow the founding principles of the community, including requirements to provide affordable housing; and
 - f) settlement creep and over-development of the area; 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.

10. 18/01190/PAN - Proposal of Application Notice for residential development and associated infrastructure at St Andrew's Road, Lhanbryde

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 6 September 2018 by Springfield Properties PLC.

Councillor A McLean asked that in terms of place-making, the applicant be mindful that the development would be the gateway into Lhanbryde (in terms of approaching Lhanbryde from the west) and reflected within the development.

In response, Mr Burnie, Principal Planning Officer agreed to feed this observation back to the Applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that in terms of place-making, the applicant be mindful that the development would be the gateway into Lhanbryde (in terms of approaching Lhanbryde from the west) and reflected within the development; 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.

11. Progress of Application 17/00834/PPP for Planning Permission in Principle for Development on Land at Findrassie, Elgin

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee about the progress of an application for planning permission in principle for development of land at Findrassie, Elgin.

Following consideration, the Committee agreed to:

- (i) note the progress made on the legal agreement associated with development proposed at Findrassie including the need for further consideration of the draft

legal agreement following the recent receipt of comments/revisals made by the applicant's legal representative; and

- (ii) apply a Direction (under Section 59 of the 1997 Planning Act, as amended) instead of a planning condition, as currently agreed, in respect of the time period within which approval of matters specified in conditions must be made from the date of granting planning permission in principle. This Direction will be incorporated into the formal decision notice.

12. Final Bilbohall Masterplan Supplementary Guidance

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to agree the responses to representations received following consultation on the draft Bilbohall Masterplan and approve the final Bilbohall Masterplan as Supplementary Guidance to the Moray Local Development Plan 2015 (LDP2015).

Following consideration, the Committee agreed:

- (i) to note the public consultation undertaken on the draft Bilbohall Masterplan Supplementary Guidance;
- (ii) the responses to representations on the draft Bilbohall Masterplan Supplementary Guidance as set out in Appendix 2 to the report;
- (iii) to approve the final Bilbohall Masterplan and associated appendices as Supplementary Guidance to the Moray Local Development Plan 2015 (LDP 2015) as set out in Appendix 1 to the report; and
- (iv) that the final Bilbohall Masterplan Supplementary Guidance be used as a material consideration in the determination of planning applications pertaining to Elgin settlement sites R3, R4, R12, CF2 and OPP7 of the LDP 2015.

13. Flood Risk and Drainage Impact Assessment for New Developments Supplementary Guidance

A report by the Corporate Director (Economic Development, Planning and Infrastructure) summarised the representations received to the consultation on the "Flood Risk and Drainage Impact Assessment for New Development Supplementary Guidance" and asked the Committee to approve the responses provided to these and delegate authority to the Head of Development Services to submit the Guidance to the Scottish Government for approval.

Following consideration, the Committee agreed:

- (i) to note the representations received to the "Draft Flood Risk and Drainage Impact Assessment for New Development Supplementary Guidance" as set out in Section 4 of the report;
- (ii) the responses provided to the representations, which are provided on the Members Portal;

- (iii) that the final draft Supplementary Guidance be used as a material consideration for development management purposes; and
- (iv) that the final draft Supplementary Guidance be submitted to the Scottish Government and, upon approval, forms part of the statutory Moray Local Development Plan (MLDP) 2015.

14. Development Services Performance Report – Half Year to September 2018

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of performance of the service for the period from 1 April 2018 to 30 September 2018. The report stated that, at the end of the reporting period, 78% of the performance indicators showed good performance and the 2018/22 Service Plan was 45% complete.

Following consideration, the Committee welcomed the good performance as indicated in the report and thereafter agreed to note the:

- (i) performance against Planning and Regulatory Performance Indicators; Service Plan; and Complaints to the end of September 2018 as outlined within the report; and
- (ii) actions being taken to improve performance where required.

15. Question Time

There were no questions raised.

16. Breach of Planning Control Encompassing Land at Burghead [Para 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of a breach of planning condition on a site encompassing land at Burghead.

Following consideration, the Committee agreed to:

- (i) Officers issuing a Breach of Condition Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring the developer to fully comply with Condition 22 of planning application reference number 03/00595/FUL in relation to the provision of a play area and equipment; and
- (ii) authorise direct action in relation to the provision of play area and equipment to secure compliance with this part of the enforcement notice if it is not complied with.

17. Unauthorised Work to a Dwelling within Cullen Conservation Area [Para 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of unauthorised works that have been carried out to a property within the Cullen Conservation Area.

Following consideration, the Committee agreed:

- (i) to Officers issuing a Planning Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997;
- (ii) that the Enforcement Notice will require the owner of the property to submit details of replacement double glazed timber windows of a traditional style within 12 months of the date of the notice and for fitting of the said windows to be carried out within 3 years of the date of the Notice;
- (iii) that the Notice requiring the fitting of the replacement windows remain as a charge on the property until all work in relation to this is satisfactorily completed;
- (iv) that the offence should not be referred to the Procurator Fiscal and that no direct action should be taken to secure compliance with the Notice.

18. Unauthorised Work to a Dwelling within Forres Conservation Area [Para 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of unauthorised works that have been carried out to a property within the Forres Conservation Area.

During discussion, clarification was sought as to whether the public are made aware of Enforcement Notices that are issued by the Council as it was thought this may encourage people to give due consideration prior to carrying out any work to their property.

In response, the Manager (Development Management) advised that, if the Applicant appealed against the Enforcement Notice once it had been served, then the information could be traced via the Planning section on the Council's website.

The Head of Development Services suggested that a press release be issued regarding the recent decisions taken by the Planning and Regulatory Services Committee in relation to Enforcement Notices to encourage those who stay in listed buildings or conservation areas to seek advice from the Planning Service prior to carrying out any work to their property.

Following consideration, Councillor Alexander moved that the Committee agree the recommendations as printed within the report with an additional recommendation to issue a press release regarding the recent decisions taken by the Planning and Regulatory Services Committee in relation to Enforcement Notices to encourage those who stay in listed buildings or conservation areas to seek advice from the Planning Service prior to carrying out any work to their property.

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

- (i) to Officers issuing a Planning Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997;
- (ii) that the Enforcement Notice will require the owner of the property to submit details of double glazed timber windows to replace the recently fitted uPVC windows on the front elevation of the property within 12 months of the date the

Enforcement Notice taking effect and subsequently fitting the double glazed timber windows within three years of the Notice taking effect;

- (iii) that the notice requiring the fitting of the replacement windows remain as a charge on the property until all work in relation to this is satisfactorily completed;
- (iv) that the offence should not to be referred to the Procurator Fiscal and that no direct action should be taken to secure compliance with the Notice; and
- (v) that a press release be issued regarding the recent decisions taken by the Planning and Regulatory Services Committee in relation to Enforcement Notices to encourage those who stay in listed buildings or conservation areas to seek advice from the Planning Service prior to carrying out any work to their property.

MORAY COUNCIL

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

THURSDAY 22 NOVEMBER 2018

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors D Bremner (Chair), A Patience (Depute), G Alexander, J Allan, T Coull, G Cowie, P Coy, J Divers, C Feaver, D Gatt, L Laing, G Leadbitter, M Macrae, S Morrison, A McLean, R McLean, D Ross and S Warren.

APOLOGIES

Apologies were intimated on behalf of Councillors F Brown, J Cowe, L Creswell, T Eagle, R Edwards, M McLean, R Shepherd and W Wilson.

ALSO PRESENT BY INVITATION

Jamie Grant, OFTO Development Manager on behalf of Moray Offshore Windfarm (West) Limited.

IN ATTENDANCE

The Head of Development Services, the Manager (Development Management), Mr N MacPherson, Principal Planning Officer (Development Management), Mrs D Anderson, Senior Engineer (Transport Development), Mr A McEachan, Head of Legal and Democratic Services, as Legal Adviser to the Committee and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the Agenda nor any declarations of Members Interest in respect of any item on the Agenda.

2. PUBLIC HEARING – PLANNING APPLICATION 18/01046/EIA

Ward 2: Keith and Cullen

Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay, underground cable circuits, construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds, access track laydown areas and other associated works from within the vicinity of Redhythe Point

in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray for Moray Offshore Windfarm (West) Limited.

Reports were submitted by the Head of Legal and Democratic Services and the Appointed Officer in regard to an application to construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay, underground cable circuits, construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds, access track laydown areas and other associated works from within the vicinity of Redhythe Point in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray for Moray Offshore Windfarm (West) Limited.

The report by the Head of Legal and Democratic Service advised that the application had been referred to a Pre-determination Hearing as the application is a National Development as defined under the Hierarchy Regulations 2008 and National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network (where the proposed new substation and electricity transmission cables would exceed the minimum threshold of 132kV). In accordance with the Pre-determination Hearing procedure, the Applicant and those submitting representations were invited to attend and be afforded the opportunity of being heard. The report also set out the proposed procedures for the Hearing and advised that Members of the Committee visited the site of the application on Tuesday 20 November 2018.

The Chair welcomed those present and advised them that submissions must be restricted to those already submitted. He further advised that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The Committee noted that Jamie Grant, OFTO Development Manager for Moray Offshore Windfarm (West) Limited was in attendance and representing the Applicant.

The Clerk advised the Committee that, of those submitting representations on the application as listed on page 43 of the Appointed Officer's report, none had accepted the invitation to address the Committee however Ms Gillies had submitted a written statement that had been circulated to the Committee and uploaded on to the Council's website along with the agenda.

The Chairman outlined the procedure to be followed for the Hearing, which was accepted by the Committee and Mr Grant (on behalf of the Applicant).

Mr Grant, representing the Applicant, addressed the meeting on the application and representations received and responded to questions from the Committee thereafter.

The main objections to the application noted by the Committee included:-

- Affecting natural environment
- Drainage
- Road Access

The Head of Development Services advised that an additional condition had been received from Transport Scotland which had been circulated to Members ahead of

the meeting and sought agreement from the Committee to include this to the conditions already detailed within the report. This was agreed.

Following consideration, the Committee agreed to recommend to Moray Council that planning permission is granted in respect of Planning Application 18/01046/EIA, as recommended subject to the following conditions/reasons:

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions below shall be obtained from Moray Council, as Planning Authority. In relation to all the conditions below the submission of matters conditioned below may be submitted in relation to the proposal within Moray in its entirety, or may be confined to each phase of the proposal individually or combined, namely either the transmission cables/jointing bays or the electricity substation.

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

2. i) The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings/details which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings/details shall show the matters specified below;-
 - a. All elevations and floor plans of structures, buildings, apparatus and fencing proposed for the substation. Plans must include details of the proposed finished levels or cross sections through the site.
 - b. Details of the proposed building materials and materials used for enclosures and gates to the substation compound.
 - c. Details of the intended lighting strategy for the substation.
 - d. Details of any proposed landscaping scheme to surround the substation compound, identifying the species, density and height of trees to be planted. A landscaping maintenance schedule must also accompany any landscaping scheme.
- ii) All works identified in 2(i) shall be completed in accordance with the approved details.

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

3. Prior to the commencement of any phase of development:
 - (i) The following details must be submitted for approval to the Council, as Planning Authority,
 - a. Plan(s) (Scale 1:10000 minimum) showing all proposed construction access route(s) (including abnormal load routes);
 - b. Detailed assessment of the proposed construction access route(s) (See Condition 3(i) a) including vehicle swept path analysis as appropriate for abnormal load requirements and construction traffic and detailed proposals for mitigation required. e.g. road widening and suitably located, intervisible passing places, holding areas to accommodate construction traffic, abnormal

load delivery vehicles all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with The Moray Council specification;

- c. Details of all proposed access locations onto the public road for construction vehicles including visibility splays, access construction, fencing/gating, signing;
- d. Details confirming locations of cable road crossings and proposed works e.g. directional drilling or open trench, access to works areas and crossings of the public road;
- e. Details confirming location of site compounds and access routes from the public road;
- f. Phasing plan(s) for the cable and sub-station works which confirms road improvement works required prior to commencement of each phase;
- g. A detailed survey of the construction access route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
- h. Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any construction and abnormal load traffic shall be completed;
- i. Construction Traffic Management Plan. (Details must include, parking provision for staff and the loading/unloading of vehicles, the methods of dealing with large and/or abnormal delivery vehicles, vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required.

- (ii) All works identified in 3(i) shall be completed in accordance with the approved details.

Reason - To ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

Delivery and Trigger Points

The required works to the public road network shall be completed prior to the delivery of any materials associated with each phase (Condition 3(i) f).

- 4. (i) Prior to commencement of construction on any phase of construction identified in Condition 3(i)f the following must be complied with/submitted:
 - a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been completed and agreed by the developer or their representative and the local roads authority to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 3(i)a will be met.

- b. Details shall be submitted for approval to the Council, as Planning Authority to confirm the provision and control of appropriate visibility splays at each proposed construction access in the construction phase.
- c. A detailed programme for the works associated with the laying of the cable, including the timing of any temporary road closure to facilitate the opening of any road.
- d. Diversion routes for local footpaths and cycleways during the construction period shall be agreed with the Council as, Planning Authority (Core Paths). All signage associated with the diversion routes shall be agreed with the Council as Planning Authority.
- e. Verge hardening shall be undertaken at any locations determined by the vehicle swept path analysis and abnormal load trial run to accommodate the wide turning circle of the abnormal load vehicles transporting sub-station components over the areas determined within the Construction Traffic Management Plan. Any dropped kerbs required must be installed during the construction period to enable over running onto the hardened verge.
- f. Unless otherwise agreed in writing by the Council abnormal load trial run(s) must be undertaken for the delivery route prior to the commencement of construction and deliveries. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.

- (ii) All works identified in 4(i) shall be completed in accordance with the approved details.

Reason - The provision of information currently lacking from the submission to ensure acceptable infrastructure at the development access in the interests of road safety.

- 5. At the start and end of each phase (as per condition 3(i)f) 'before and after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason - The provision of information currently lacking from the submission to ensure acceptable infrastructure is provided in the interests of road safety.

- 6. Dedicated parking areas shall be provided during construction to prevent vehicles parking on the public road verge, the locations of which shall be agreed with the Council as, Planning Authority following consultation with Moray Council Transportation.

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

- 7. Prior to the commencement of construction the diversion routes for local footpaths and cycleways during the construction period shall be agreed with Moray Council as, Planning Authority in consultation with the Access Manager. All signage associated with the diversion routes shall be agreed with Moray Council as, Planning Authority.

Reason - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

8. No works shall commence on site until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/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.

9. Any existing ditch, watercourse or drain under any access or passing place or holding area as a result of this development shall be re-routed or piped using a suitable diameter of pipe, in agreement with Moray Council as, Planning Authority in consultation with Transportation Manager. Any pipe shall be laid to a self-cleansing gradient.

Reason - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

10. For the cables details must be provided of their final route and identify any proposed micro siting limits. The proposed route must demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Groundwater
- Engineering works in the water environment, including watercourse crossings
- Flood Risk

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

11. For each phase of development a Construction and Temporary Works Schedule including plans showing all construction and temporary works must be provided. The schedule must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs),
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains

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

12. For the substation full details of the layout, siting and elevations of the substation and any associated access road must be provided. This must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains
- Full details of the proposed means of disposal of foul (septic tank) and surface water from the substation supported, if required, by a Drainage Impact Assessment.

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

13. A specific Construction Environmental Management Plan (CEMP) for each phase is required to be submitted including details of a Site Waste Management Plan, disposal of any surplus material and pollution prevention measures once operational. The CEMP must also contain a Phasing Plan outlining details of the phasing of all construction works including top soil stripping. Thereafter, development must accord with the agreed Phasing Plan unless otherwise agreed in writing with Moray Council as, Planning Authority in consultation with SEPA.

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

14. Unless otherwise agreed in writing with the Council as, Planning Authority, the imbedded mitigation and proposed additional mitigation measures as specified in Chapter 15 Summary of the Environmental Impact Assessment of the EIA Report must be carried forward and implemented in the detailed design, layout and position of the transmission cables and substation in any approval of reserved matters application.

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

15. The pre-construction verification check surveys referred to in the mitigation proposals summarised in Chapter 15 of the EIA Report must be carried out by suitably qualified individuals and include a contingency for the protection of species if found (such as ground nesting birds). Furthermore, measures such as avoiding ground stripping during the nesting season in line with the methodology suggested in the last bullet point of page 45, Paragraph 6.4.3.3 within EIA report, Chapter 6 Ecology and Nature Conservation must be included in that contingency plan in the event that pre-construction verification checks identify the presence of ground nesting birds and other protected species or nesting birds and their nests.

Reason - To ensure that the mitigation measures proposed in the EIA Report are transferred into actionable contingency plans in the event that the pre-

construction verification check surveys identify ground nesting birds and other protected species or nesting birds and their nests.

16. In the event that the proposed cable route requires substantive tree felling, details for the transmission cables must be accompanied by a detailed tree survey and include the specific locations along the finalised cable route where trees would require to be felled and need to remain free of trees in perpetuity. This must be accompanied by a requisite scheme detailing the quantity, type and location of compensatory tree planting to account for any loss of woodland or land designated within the National Forest Inventory.

The approved compensatory woodland planting scheme, must thereafter be provided in accordance with the approved details in the first planting season following the substation and transmission cable being electrified. The applicant must notify the Council as, Planning Authority in writing within 21 days of the cable being electrified.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified in the event that significant woodland removal is required.

17. That within a period not less than 6 months prior to the cessation of operations, or an alternative timeframe as agreed in writing by Moray Council as, Planning Authority, a decommissioning plan is to be prepared in line with best practice at the time of preparation and submitted for the written approval of Moray Council as, Planning Authority in consultation with SEPA and Aberdeenshire Council. The decommissioning of the development must thereafter be undertaken in accordance with the approved decommissioning plan.

Reason - To ensure provision is in place to facilitate a move towards a “Circular Economy” and future proof the development against future environmental requirements or considerations in the interests of the protection of the natural environment.

18. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Friday and 0700 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with Moray Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

19. Prior to any development commencing on any agreed phase of development a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council as planning Authority. The CEMP shall include the following matters (notwithstanding other consultees may require other considerations) –

- a. A construction noise and vibration management plan including proposed measures for the mitigation of construction noise and vibration, where necessary.
 - b. A dust and air quality management plan including proposed measures for the mitigation of dust arising from construction activities, where necessary.
- All measures works identified in 19 a and b shall be implemented in accordance with the approved plans.

Reason - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

- 20. A further Noise Impact Assessment (NIA) will require to be undertaken in accordance with BS 4142 : 2014 Method for rating and assessing industrial and commercial sound in relation to the substation. The assessment findings shall be reported in writing to and approved by the Council as Planning Authority. The approved operational noise rating levels arising from this further NIA shall not be exceeded during the operational lifetime of the development.

Reason - In order to minimise the impact of the development on the amenity of the surrounding area including local residents.

- 21. No private water supply shall be used during or post construction for any phase of the project, until details have been submitted in order that its wholesomeness and adequacy can be assessed by the Environmental Health Manager of Moray Council.

Reason - To ensure detailed consideration can be given to the possible use of private water supplies for the development hereby approved.

- 22. In the event that the wholesomeness or adequacy of any private water supply becomes affected by construction activity, all users of such supplies and Environmental Health Manager of Moray Council must be contacted to discuss remediation measures as a priority. Thereafter repair of any affected private water supply must be carried out to the satisfaction of the Council as Planning Authority in consultation with the Environment Health Manager. The Council shall be the final arbiter whether any supply has been affected by this development.

Reason - To ensure that the adequacy and wholesomeness of private water supplies are protected at all phases of the project.

- 23. Unless otherwise agreed in writing, no development shall commence on any phase until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the finalised cable route have been submitted to, and accepted in writing by the Council as, Planning Authority. The strategies shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:
 - a. an appropriate level of characterisation of the type, nature and extent of contamination and accompanying risk assessment as described in

- Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
- b. how any identified contamination will be dealt with during construction works;
 - c. details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
 - d. a means of verifying the condition of the site on completion of the works.

Thereafter, the works shall be implemented in accordance with agreed details.

Reason - To ensure that the site that risks to the wider environment and future users of the site and neighbouring land from on-site contamination are appropriately assessed and managed.

24. For each phase of the development a programme of archaeological mitigation including recording, monitoring and, or excavation as appropriate will to be undertaken in accordance with a Written Scheme of Investigation to be prepared in consultation with Moray Council and Aberdeenshire Council Archaeology Service in accordance with the additional mitigation proposed in Chapter 15 'Summary of the Environmental of Impact Assessment' of the EIA Report.

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

25. For either phase (cable route or substation), the following details to be submitted for consideration by Moray Council as Planning Authority in consultation with the Moray Flood Risk Management team:
 - a. Drainage Impact Assessment (DIA) for the substation area.
 - b. SUDS scheme for the substation area.
 - c. Construction phase surface water management plan.
 - d. Detailed plans and calculations showing that the capacity of all over water crossings allowing free passage of 1:200 year flow + climate change (20%).

The development must then be constructed and operated in accordance with the approved Drainage Impact Assessment and SUDS Scheme.

Reason - In order to allow for consideration and approval of the drainage matters specified.

26. The proposed access(es) to the trunk road shall be constructed by the applicant in accordance with the Design Manual of Roads and Bridges (DRMB). The junctions shall be constructed in accordance with details that shall be submitted and approved by the Planning Authority, before any part of the development is commenced. All necessary costs associated with the construction, supervision and safety audits, including all additional work identified by the audit as being necessary for the safety of the users of the trunk road, shall be funded by the developer.

Reason - To ensure that the standard of access layout complies with the current standards and the safety of the traffic on the trunk road is not diminished and to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.

27. Prior to commencement of deliveries to site, a Construction Traffic Management Plan including swept path analysis must be submitted to and approved by Transport Scotland to ensure that abnormal loads can be transported along the trunk road network safely. The complete report shall detail any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management etc. and show that the transportation will not have any detrimental effect on structures within the route path.

Reason - To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

28. During the delivery period of the construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised Quality Audit traffic management consultant, to be approved by Transport Scotland before delivery commences.

Reason - To ensure that transportation will not have any detrimental effect on the road and structures along the route.

29. Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

Reason- To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

Minute of Special Meeting of the Planning and Regulatory Services Committee

Tuesday, 18 December 2018

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor George Alexander, Councillor David Bremner, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor John Divers, Councillor Ryan Edwards, Councillor Claire Feaver, Councillor Louise Laing, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Amy Patience

APOLOGIES

Councillor Ray McLean

IN ATTENDANCE

The Head of Development Services, Mr N MacPherson, Principal Planning Officer, Mr G Templeton, Principal Planning Officer, Mr K Henderson, Planning Officer, Ms R MacDougall, Planning Officer, Mrs E Gordon, Planning Officer, Mr J Killeen, Engineer (Transport Development), Legal Services Manager (Property and Contracts) and Mrs L Rowan, Committee Services Officer as Clerk to the Meeting.

1. Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

2. Variation Request for 18/00954/S36 - Construct and Operate an Offshore Windfarm within the Moray Firth, known as Moray West Windfarm

Under reference to paragraph 7 of the Minute of this Committee dated 18 December 2018 where the Moray Council agreed not to object to a proposed offshore windfarm development by Moray West Offshore Windfarm, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider the consultation relating to a variation request accompanied with an addendum from Marine Scotland under the Electricity Act 1989 for a Section 36 consent relating to the proposed offshore windfarm.

Following consideration, the Committee agreed that the Committee responds to the consultation to raise no objection to the proposed variation to the offshore windfarm development and instructed Officers to respond to Marine Scotland to that effect.

3. Moray Local Development Plan 2020 - Moray Local Landscape Designations Review - Final Report

Under reference to paragraph 12 of the Minute of this Committee dated 18 September 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) summarised the representations received in response to the Moray Local Landscape Designations Review that was issued for public consultation for a 6 week period which proposed a series of new candidate Special Landscape Areas (cSLA's).

Following consideration, the Committee agreed:

- i. the proposed responses provided to the comments received to the public consultation, as set out in Appendix 1 of the report;
- ii. that the proposed Special Landscape Area (SLA) designations replace the current Areas of Great Landscape Value (AGLV), Coastal Protection Zone (CPZ) and Pluscarden Area of Special Control, and be incorporated into the Proposed Moray Local Development Plan 2020; and
- iii. to delegate authority to the Head of Development Services to make the changes to the final version of the report based on the recommendations set out in Appendix 1 of the report.

4. Moray Town Centre Health Checks 2018

A report by the Corporate Director (Economic Development, Planning and Infrastructure) reported the key findings of the Moray Town Centre Health Check 2018 and asked the Committee to consider adopting the Moray Town Centre Health Check Report 2018 as a material consideration in future retail planning policy and planning application decision making.

The Committee joined the Chair in commending the work of Elgin BID, Lossiemouth Business Association and Lossiemouth Community Development Trust which has contributed to a very positive report in relation to Moray Town Centres and thereafter agreed to:

- i. note the findings of the Moray Town Centre Health Check Report 2018;
- ii. adopt the Moray Town Centre Health Check Report 2018, as set out in Appendix 1, as a material consideration in future retail planning policy and planning application decision making;
- iii. the publication of the Town Centre Health Check Report 2018 on the Planning and Development website pages; and
- iv. note that a report will be submitted to the Economic Development and Infrastructure Services Committee for them to consider and note the findings of the Town Centre Health Check Report 2018.

5. Moray Local Development Plan 2020-Proposed Plan

Councillor Laing left the meeting during discussion of this item.

Under reference to paragraph 3 of the Minute of this Committee dated 25 September 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider the content of the Proposed Moray Local Development Plan (LDP) 2020 and agree to issue the Proposed Plan for consultation.

During discussion surrounding Burn of Buckie which is designated ENV5, Councillor Cowie stated that 4 home owners in this area were struggling to sell their properties due to part of the land being designated as ENV5 and asked if the designation could be changed to white land.

In response Mr Templeton, Principal Planning Officer advised that a recent meeting had taken place with one of the home owners, Mr Henderson, Planning Officer and Douglas Ross, MSP in relation to changing the home owner's land from ENV5 designation to garden ground and that there was ongoing discussion with Development Management as to the best way forward. The home owner had been advised to raise an objection to the ENV5 designation in relation to his property during the consultation period and that this objection will be reflected in the paperwork submitted to the reporter for examination. This was considered to be the most appropriate way forward for consistency, as the site in question had been the subject of a retrospective planning application and subsequent refusal by the Moray Local Review Body.

Councillor Cowie, in noting the information provided by Mr Templeton, moved that the ground currently designated as ENV5 within the 4 properties near the Burn of Buckie be changed from ENV5 to white land. This was seconded by Councillor Macrae.

The Legal Adviser acknowledged that Councillor Cowie had local knowledge of the area in question however advised that the rest of the Committee must specifically know what area of land Councillor Cowie was referring to so that they could make an informed decision and asked that the specific area be shown to the Committee on a plan.

Mr Templeton provided the Committee with a plan and pointed out the 4 properties in question.

Councillor Patience, having noted the plan provided by Mr Templeton, was still unsure of the area in question and was therefore of the view that there was insufficient information available to make an informed decision in relation to changing the ENV5 designation within the 4 properties near the Burn of Buckie to white ground and moved that the proposed Moray LDP remain unchanged. This was seconded by Councillor Coy.

Councillor A McLean sought further clarification from Mr Templeton in relation to why the area of ground in question had remained ENV5 designation in the new plan given the issues surrounding the 4 properties in question.

In response, Mr Templeton advised that Officers had reflected the recent planning decision to refuse a retrospective planning application and subsequent LRB refusal in relation to one of the 4 properties in question. He further advised that the homeowner had been made aware of the opportunity to raise an objection to the ENV5 designation surrounding his property during the consultation period which in turn would be examined by a Reporter from the Directorate of Planning and

Environmental Appeals.

Councillor Alexander on hearing the advice from Mr Templeton moved that the plan remain unchanged and that local Councillors provide the relevant homeowners with the information provided by Mr Templeton.

Councillor Cowie, after considering the advice provided by Mr Templeton, agreed to withdraw his motion and stated that he would provide the relevant homeowners with information regarding the consultation process.

Thereafter, Councillors Patience and Alexander agreed to withdraw their amendments accordingly.

The Committee joined the Chair in commending Officers for the tremendous amount of work involved in producing the Moray Local Development Plan 2020 and thereafter agreed:

- i. the content of the Proposed Moray Local Development Plan 2020, representing the “settled view” of the Council;
- ii. to delegate authority to the Head of Development Services to make minor text changes and complete the remaining graphics for the Proposed Plan in consultation with the Chair and Depute Chair;
- iii. to delegate authority to the Head of Development Services to include the “A96 Dualling Hardmuir to Fochabers- Preferred option” in the appropriate plans and settlement statements;
- iv. to issue the Proposed Plan for a 10 week period of consultation;
- v. that a report on objections arising from the consultation be reported back to a future meeting of this Committee; and
- vi. that the Proposed Moray Local Development Plan 2020 be treated as a material consideration for development management purposes as of 1 February 2019.



**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE
MEETING OF 13 NOVEMBER 2018**

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.

18/01209/APP
11th September
2018

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

Comments:

- Application is major development as defined under the Hierarchy Regulations 2009 for a development with more than 50 houses, and the site area exceeds 2ha.
- Application amended.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- No representations received.
- Application 16/01244/APP - the current permission - accepted as a significant departure from the development plan after consideration at a pre-determination hearing and subject to a Section 75 agreement regarding planning obligations to address the impact of the development.
- Application 18/01603/S75 under consideration to modify existing agreement regarding planning obligations for Elgin South Phase 1 development, to apply to development pursuant to the current permission (16/01244/APP) and this latest application (18/01209/APP).

Procedure:

- Application 18/01603/S75 to modify existing agreement regarding planning obligations for Elgin South Phase 1 development to be determined and thereafter, await receipt of formal acknowledgement for recording of modified agreement prior to issue of planning permission.

Recommendation

Grant Planning Permission – subject to the following

1. completion of modified legal agreement regarding planning obligations; and
2. the following conditions:

Conditions/Reasons

Permission is granted subject to the following conditions: -

- 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.

Reason(s) for Decision

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

Planning permission has already been granted for a Phase 1 development at Elgin South to include 870 dwellings, neighbourhood uses, sites for two primary schools and a Moray Sports Centre subject to planning conditions and a legal agreement regarding planning obligations

By seeking to vary a condition of that development, this application seeks to maintain the overall parameters and provisions of the current permission whilst promoting a revised form of development including amended phasing design and site layout arrangements. Whilst maintaining the provision for 870 dwellings overall, and for 295 dwellings within Phase 1A, the proposed adjustment in the locations of development within Phase 1A will facilitate early but increased delivery of housing in the western part of the site within the Crescent North and South Glassgreen character areas, including delivery of 50 affordable dwellings. The location and number of dwellings within successive phases of the development will be rebalanced, in part also addressing requirements to safeguard development in proximity to a high-pressure gas pipeline. The latter will result in a loss of housing from Village Garden but this will be re-located into Village Core and Meadows East character areas. The latest application also includes revisions to the mix of housing including amended design and site layout arrangements. The proposed variation does not impact upon the arrangements to deliver the Moray Sports Centre and the two sites for primary schools.

The proposed variation of Condition 1 of application 16/01244/APP is considered acceptable and remains acceptable, in accordance with the terms and conditions of the current permission and as a significant departure from the development plan. It will result in limited but not significant changes in the overall character and appearance of the Phase 1 development approved within Elgin South when compared with application 16/01244/APP.

Subject to conditions as recommended and modification of the existing agreement regarding developer obligations, the development as now proposed is acceptable, accords with planning policy and respects the Elgin South Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

List of Informatives:

THE BUILDING STANDARDS MANAGER, has commented that:-

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

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

The development is subject to a modified legal agreement (under Section 75A of the 1997 Planning Act), following a formal application (18/01603/S75) to modify the terms of the existing agreement for application 16/01244/APP. The modified agreement relates to developer obligations pursuant to development progressed under applications 16/01244/APP and 18/01209/APP in regard to the arrangements for developer obligations towards provision of primary and secondary education and healthcare facilities, alternative arrangement to provide sports pitches at Moray Sports Centre and requirements to transfer of ownership of the primary school sites to Moray Council and for Linkwood Primary School, provision of a 'serviced' site.

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

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

The permission as hereby granted relates solely to the location and intended use of the two sites as identified for primary school education purposes. Details regarding the design and site layout arrangements to provide a school facility within each site will require to be the subject of a separate application for planning permission. A separate application has already been granted for the Linkwood Primary School (formal decision notice 17/01422/APP refers including details thereunder to discharge conditions attached to that permission.

With regard to the proposed non-residential units/buildings as hereby approved and for proposals to implement the approved uses, and before undertaking any alterations, details to change and/or alter the external appearance of the units beyond that approved within this permission including, for example, window and door arrangements or the installation of additional plant and machinery (for example, for required ventilation/extraction purposes in relation to any Class 3 use) etc. must be submitted to the Council, as Planning Authority to establish the requirements for planning permission and other related consents including advertisement consent, etc.

For the avoidance of doubt, no part of the permission as granted confers acceptance (nor should it be so construed) of the "Future Phase" extension of

the Centre and car parking areas. Any such expansion of the Centre will require to be the subject of a separate application for planning permission.

Additional informatives as received from the Moray Flood Risk Management, Environmental Health Manager and the Environmental Protection Manager and appended to formal decision notice 16/01244/APP are hereby re-iterated

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

No new Transport Assessment was submitted with the current application and this application is therefore considered on the same basis as the previous consent.

The following drawings submitted showing vehicle swept path analysis and road layouts are not approved:

ES (Village Garden)-ENG-001-E

ES (Village Garden)-ENG-008

ES (Village Garden)-ENG-007

ES (Village Garden)-ENG-009

ES (South Glassgreen) ENG-009* (*Please note there are two different drawings with the same drawing number and ENG-008 drawing number 2 of 4, appears to be missing)

ES (South Glassgreen)-ENG013

ES (South Glassgreen)-ENG010 (There are two ENG-010 files with different information)

The relocation of driveways and parking provision, and the provision of boundary fences for affordable housing plots shall take into consideration Moray Council Housing and Property requirements in terms of plot size and layout arrangements for the provision of such accommodation.

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

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

A permanent traffic counter (loop type) and cabinet shall be provided by the developer at a location to be agreed with Transportation in proximity to the bridge over the Linkwood Burn, to enable the monitoring of traffic flows over the bridge during the period that one-way operation is proposed.

A Road Safety Audit for the modifications to the existing public road (including Linkwood Road improvements, Birnie Road improvements and the proposed site accesses onto Birnie Road, the A941 and Linkwood Road) will also be required as part of the Roads Construction Consent.

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

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

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

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

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

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

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

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See consultation response dated 27 September 2017 in relation to regulatory advice for the applicant wherein a Controlled Activities Regulations (CAR) construction site licence will be required to manage surface water run-off from a construction site, including access tracks and as site design may be affected by pollution prevention requirements, the applicant is strongly encouraged to engage in pre-CAR application discussions with the SEPA regulatory services team. Below identified thresholds, the applicant will need to comply with CAR requirements with all reasonable steps taken to ensure that discharge does not result in pollution of the water environment, and details of how this is achieved may be required through a planning condition.

Details of regulatory requirements and good practice advice is available from SEPA (via website or local office).

ABERDEEN ARCHAEOLOGY SERVICE has commented that:-

The archaeological written scheme of investigation (WSI) should include details about how recording and recovery of archaeological resources found within the application site shall be undertaken, and how updates to the written scheme of investigation will be provided, if required, throughout implementation of archaeological works programme. Should the works reveal the need for post excavation analysis, the development shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication

and dissemination of results and archive deposition has been submitted/approved, with the PERD carried out in accordance with the approved details.

Some archaeological work has already been undertaken at the site but large areas across the site still require investigation. Whilst a WSI has been submitted previously, the programme of works can be undertaken across the site as a whole, in advance of development, as a single piece of work, or by area/phase in line with any proposed phasing timetable. If a phased approach is undertaken, the works would be discharged in these phases with the condition remaining in place until all works are complete. When archaeological work is carried out on site, the review can be phase by phase or area by area based on the results of executed work.

SCOTTISH GAS NETWORKS (SGN) has commented that:-

See consultation response dated 12 November 2018 wherein objection to the development is withdrawn subject to condition that new roads will not cross the pipeline. Any future amendments may affect the pipeline (including finished ground levels, planting of trees, and construction of paths within the pipeline servitude strip) and requirements on working within the vicinity of the high-pressure pipeline must be discussed with, and approved by, SGN prior to commencement of work.

Excavations, stockpiling of material, vehicles crossing over the top of the pipeline, drilling, piling and the siting of temporary structures of cabins and containers are activities that can have an effect. This list is not exhaustive and SGN advice should be sought if in doubt. Should the extent or design of the permission be amended, SGN may require further consultation with the applicant. The developer has consulted with SGN and agreed working methods necessary to safeguard the security of the pipeline.

SCOTTISH & SOUTHERN ELECTRICITY NETWORKS has commented that:-

There are high voltage overhead lines within the proposed development area. In relation to SSE's apparatus and when working in the vicinity of overhead lines, the developer should refer to Health and Safety Guidance Note GS6 and if any SSE apparatus requires to be diverted or moved in connection with the development, the cost will be borne by the applicant.

SCOTTISH WATER has commented that: -

See consultation response dated 13 November 2017 including comments that further investigation may be required once a formal application has been submitted to Scottish Water who are unable to reserve capacity within the existing water and/or waste water treatment works for this development and that the availability of capacity will be reviewed once a formal connection application is submitted after full planning permission has been granted. According to records the proposal will impact on existing asset infrastructure within the boundary and any potential conflicts should be identified by the developer as this may place restrictions on proximity of construction. The response also includes information on Scottish Water infrastructure located within the site boundary, surface water, general notes and next steps information for the applicant's information and attention.

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

Amended design and site layout details

**DETAILS WHERE DIFFERENT TIME-PERIOD(S) FOR DURATION OF PLANNING
PERMISSION IMPOSED (S.58/59 of 1997 ACT)**

N/A

TERMS OF S.75 AGREEMENT RELATING TO THIS APPLICATION

The terms, or summary of terms of the Agreement can be inspected at:-

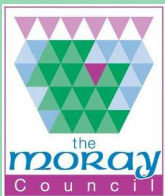
The Moray Council, High Street, Elgin IV30 9BX
or at <http://public.moray.gov.uk/eplanning/>
(and at “Search” insert application reference 16/01244/APP)

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
EL44 SL 22	F	Advanced structure planting
EL44 SL 23	F	Advanced structure planting - Glassgreen
EL44 SL 24	D	Advanced structure planting - East
EL44 SL 14-01	D	Linkwood Road (North)
EL44 SL 14-01	J	Linkwood Road
EL44 SL 14-02	F	Linkwood Road (South)
EL44 SL 15	M	HSE Pipeline offsets
EL44 VC 02	E	Village Core- general layout
EL 44 VC 03	G	Village Core Housing mix
EL44 VC 04	E	Village Core road hierarchy
EL44 VC 05	F	Village Core external finish
EL44 VC 06	F	Village Core Open and Green Spaces
EL44 VC 07	E	Village Core Use Class
EL44 VC 12	A	Village Core Remix layout
EL44 CN 02	G	Crescent North General Layout
EL44 CN 03	H	Crescent North Housing mix
EL44 CN 04	G	Crescent North Roads Hierarchy
EL44 CN 10	C	Crescent North remix layout shown as approved
EL44 CN_L_01	B	Crescent North landscape layout
EL44 CN MC 01A		Crescent North material conditions
EL44 MN 02	E	Meadows North general layout
EL44 MN 03	F	Meadows North housing mix
EL44 MN 04	E	Meadows North Road hierarchy
EL44 MN 05	F	Meadows North external finish
EL44 MN 06	F	Meadows North open and green spaces
EL44 SG 02	K	South Glassgreen layout
EL44 SG 03	K	South Glassgreen Housing mix
EL44 SG 04	I	South Glassgreen roads hierarchy
EL44 SG 10	D	South Glassgreen remix layout approved layout
EL44 SGG MC_01	A	South Glassgreen material conditions
EL44 SGG_L_01	C	South Glassgreen detailed landscaping
EL44 SL 31	D	Overall house numbers

EL44 SL 04	J	Overall numbers
EL44 SL 05	J	Character Areas plan
EL44 SL 06	L	Affordable and Commercial locations
EL44 SL 07	J	Roads hierarchy
EL44 SL 08	L	Open and greens spaces
EL44 SL 09	L	Phasing plan
EL44 SL 11	H	Location of parking spaces
EL44 SL 12	H	Location for accessible housing
		Crescent North - FFL
		Daikin Altherma Hybrid Heat Pump
		Daikin Althermasmall monoblock AWHP
		Multi Play equipment
		Phase 1 - Housing number/phasing
		Play equipment
		Traditional equipment
1104DT(AS)901	B	Lauder - elevations and floor plans
1104DT(OP)901		Lauder (OP) - elevations and floor plans
1339DT(--)901		Braemar (OP) - elevations and floor plans
1339DT(--)901	F	Braemar - elevations and floor plans
EL44 ASP_01		Advanced Structure planting outline scheme
EL44_BIN_01		Bin store details and layout
EL44_CN_00	G	Crescent North - Location plan
EL44_CN_07		Crescent North - visual representation
EL44_MC_00	B	Materials and Character areas
EL44_ME_00	G	Meadows East - location plan
EL44_ME_02	C	Meadows East - boundary treatments
EL44_ME_03	C	Meadows East - housing mix
EL44_ME_04	C	Meadows East - roads hierarchy
EL44_ME_06	D	Meadows East- open space and green space
EL44_ME_07		Meadows East- visual representation
EL44_ME_09		Meadows East - remixed layout showing as approved
EL44_MN_00	G	Meadows North - location plan
EL44_MN_07		Meadows North - visual representation
EL44_MN_L_01		Meadows North - landscaping layout
EL44_MN_MC_01		Meadows North - material conditions
EL44_SG_00	G	South Glassgreen - location plan
EL44_SG_07	H	South Glassgreen - use class layout
EL44_SG_08		South Glassgreen - visual representation
EL44_SL_01		Location plan
EL44_SL_33		Tree protection plan
EL44_VC_10		Village Core - visual representation
EL44_VC_00	G	Village Core - location plan

EL44_VC_08	Village Core East - visual representation
EL44_VC_09	Village Core East - visual representation
EL44_VG_00 G	Village Garden - location plan
EL44_VG_02 I	Village Garden - boundary treatments
EL44_VG_03 I	Village Garden - Housing mix (showing as approved)
EL44_VG_04 G	Village Gardens- roads hierarchy
EL44_VG_06 H	Village Garden - open space and green space
EL44_VG_07 G	Village Garden - use class layout
EL44_VG_08	Village Garden - visual representation
EL44_VG_11	Village Garden - housing mix
EL44_VG_L-01	Village Garden - landscaping layout
EL44_VG_MC_01	Village Garden - material conditions
ES(CRESCENT NORTH)-ENG-0-1	Crescent North roads layout
ES(CRESCENT-NORTH)-ENG-007	Crescent North - site design layout sheet 1 of 2
ES(CRESCENT-NORTH)-ENG-008	Crescent North - site design layout sheet 2 of 2
ES(CRESCENT-NORTH)-ENG-010	South Glassgreen - site design layout sheet 4 of 4
ES(GLASSGREEN)-ENG-013	South Glassgreen - TMC refuse vehicle swept path
ES(SOUTH GLASSGREE)-ENG-001	South Glassgreen - roads layout
ES(SOUTH GLASSGREEN)-ENG-007	South Glassgreen - site design layout sheet 1 of 4
ES(SOUTH GLASSGREEN)-ENG-009	South Glassgreen - construction traffic management plan
ES(SOUTH GLASSGREEN)-ENG-009	South Glassgreen - site design layout sheet 3 of 4
ES(SOUTH GLASSGREEN)-ENG-010	SUDS pond details
ES(SOUTH GLASSGREEN)-ENG-015	Surface water catchment area
ES(VILLAGE GARDEN)-ENG-001 E	Village Garden - roads layout
ES(VILLAGE GARDEN)-ENG-007	Village Garden - site design layout sheet 1 of 2
ES(VILLAGE GARDEN)-ENG-008	Village Garden - site design layout sheet 2 of 2
ES(VILLAGE GARDEN)-ENG-009	Village Garden - drainage layout sheet 1 of 2
ES(VILLAGE GARDEN)-ENG-010	Village Garden - drainage layout sheet 2 of 2

	South Glassgreen FFL
EL44 LMP_01	Landscape schedule
EL44_VG_10 B	Village Garden - remix layout showing as approved building footprints
MC/2012/Z/01	Z Type Plans and Elevations
MC/2018/K/OPP/01	K Type Plans and elevations



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01209/APP

Site Address:

Elgin South

Elgin

Applicant Name:

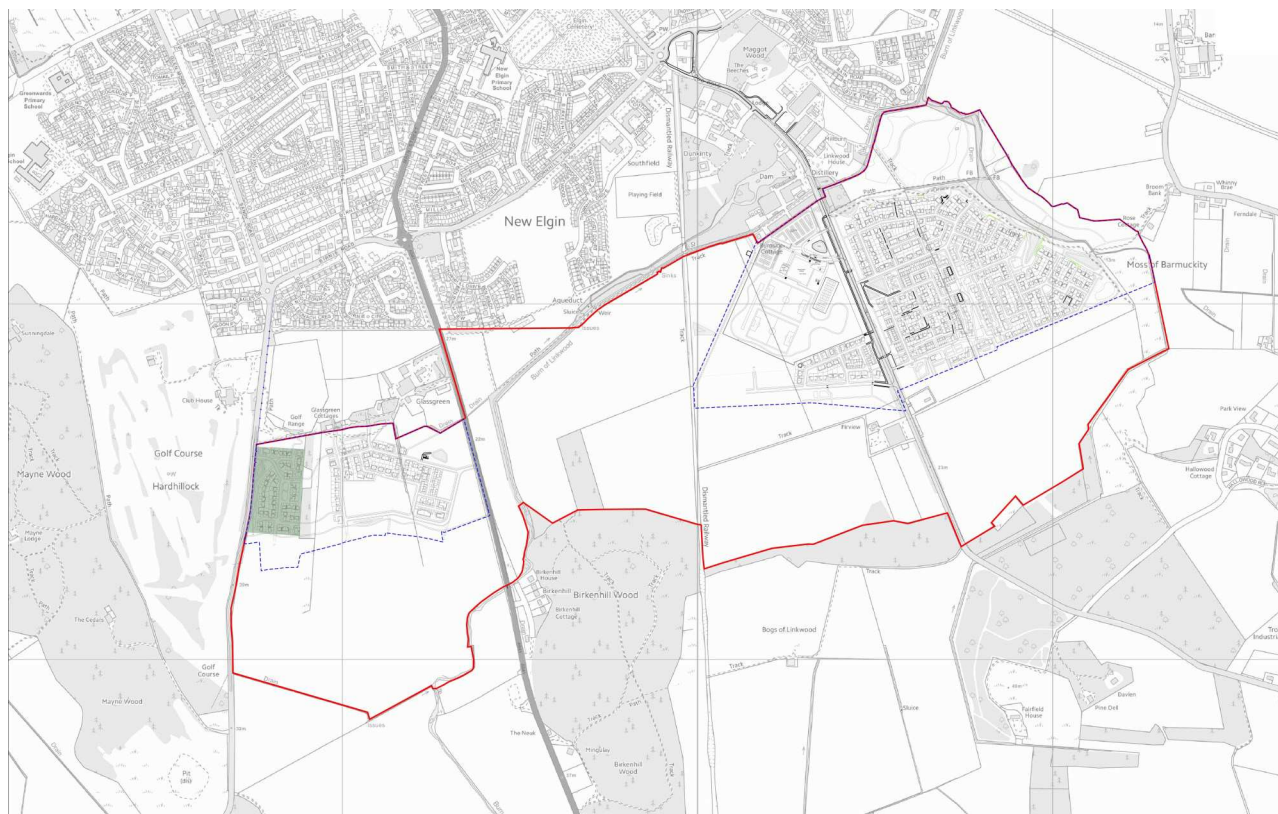
Springfield Properties PLC

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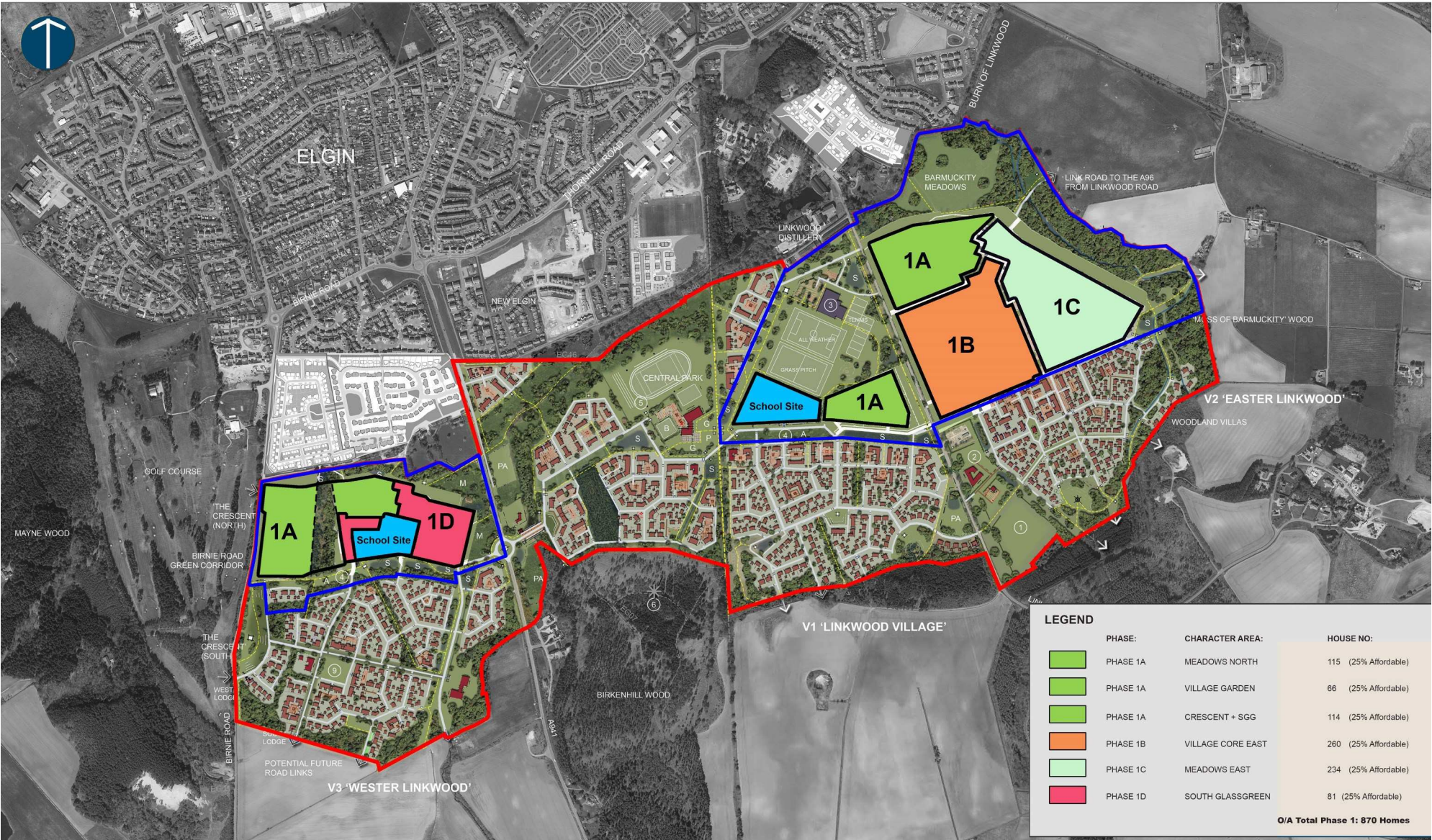
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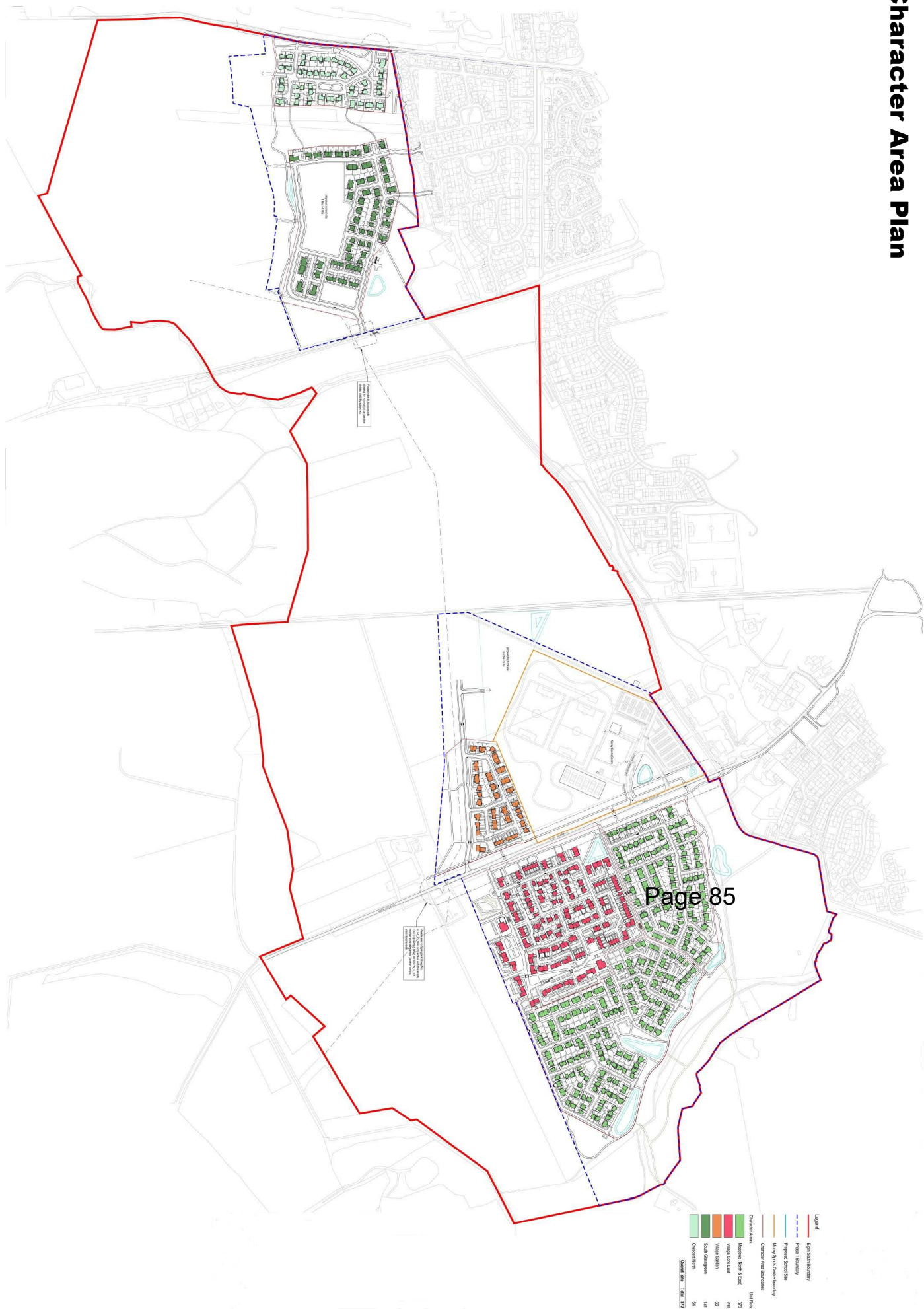
Location Plan



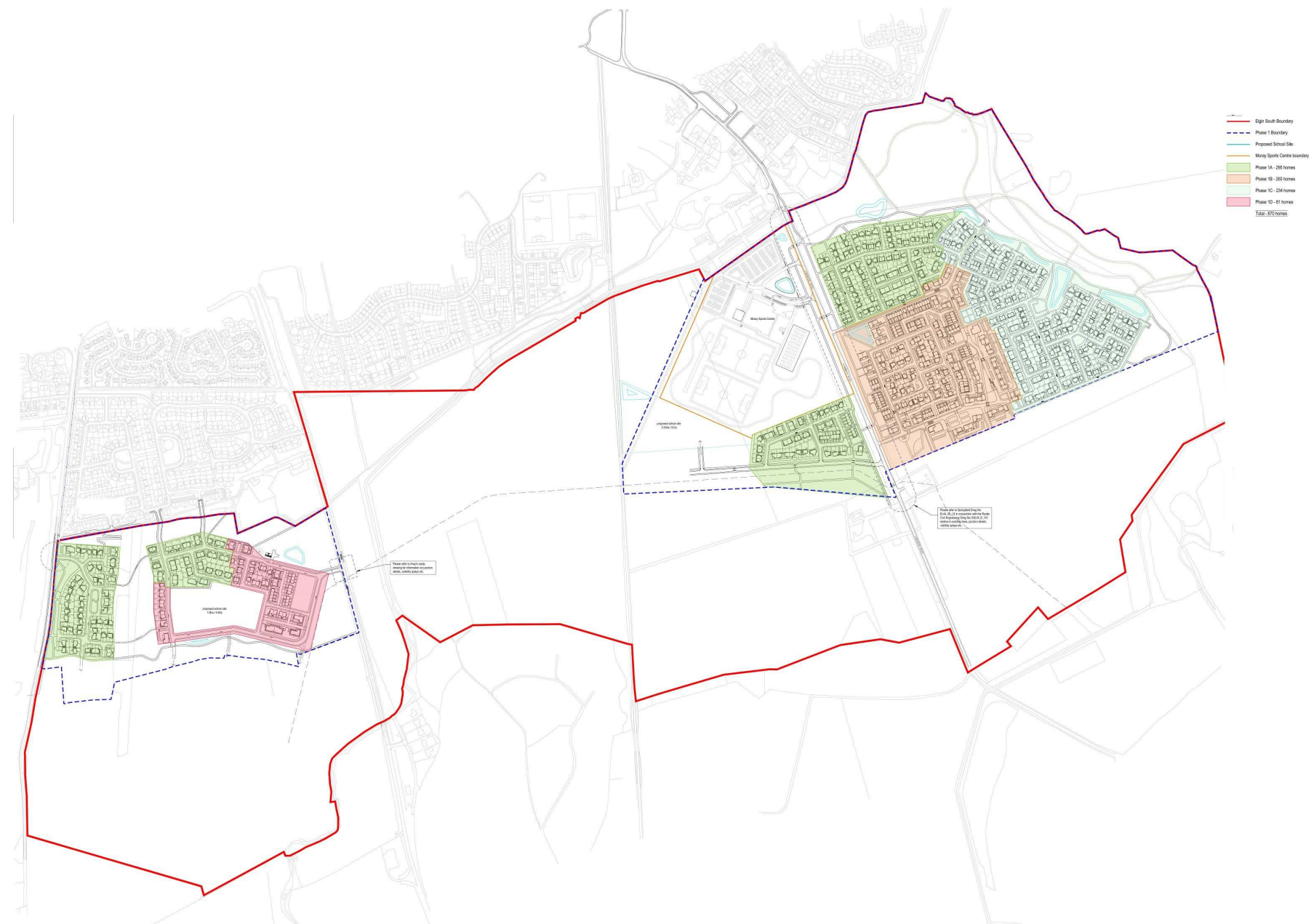
Phase 1—House Numbers/Phasing



Character Area Plan



Phasing Plan



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

INTRODUCTION

Following consideration at a pre-determination hearing and subject to conditions and a Section 75 Agreement regarding planning obligations, an (amended) application for a Phase 1 development on the Elgin LONG 2 South [Elgin South] designation (as defined in the adopted Moray Local Development Plan (MLDP) 2015) was granted planning permission by formal decision notice 16/01244/APP dated 10 May 2018. This application is the first to be submitted and approved for development within the Elgin South designation.

As approved, the application includes 870 houses, neighbourhood uses, a Moray Sports Centre (with indoor and outdoor recreation) [the Centre], and sites for two primary schools (at Linkwood and South Glassgreen) together with associated transport, drainage, open space and landscaping infrastructure.

This current (Section 42) application seeks to vary Condition 1 as attached to application 16/01244/APP [the current permission] which states:

“1 The permission hereby granted shall relate to the application as amended for a development of 870 dwellings (houses and/or flats/apartments), neighbourhood uses, a Sports Centre, two sites for primary schools and associated infrastructure, all in accordance with the amended drawings including EL44_SL_05 D as hereby approved regarding the location, design and site layout arrangements (see ‘List of Plans and Drawings Showing The Development’ included in this permission).

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

In summary, and although maintaining a total of 870 dwellings across the approved site, the proposed variation seeks to allow commencement of up to 50 affordable homes within the western part of the approved site and address the implications of the actual route of a high-pressure gas pipeline crossing through the eastern part of the site. In addition, to a rebalance of the number of units within each phase and part of the site, the proposal includes revised (including new) house design and site layout details, and information to address conditions of the current permission, focussing on the western part of the site.

The proposed variation seeks mainly to amend the provision of residential accommodation across the Phase 1 Elgin South area including amended/alternative phasing, design and site layout arrangements as now shown on the submitted Phasing Plan EL44_SL_05 Rev E. Although included within the application site boundary as defined, the proposed variation does not alter the arrangements included in the current permission for the Centre and the two sites for the primary schools. No information beyond that previously submitted/approved is included for these elements of the proposal.

From the MLDP 2015, the Elgin South designation is one of two LONG designations intended to set the future direction and growth of development for Elgin. As a material consideration, the Elgin South designation is subject to an approved Elgin South Masterplan [the Masterplan] which promotes a framework for the delivery of approx. 2500 dwellings plus community, leisure and educational facilities, etc within different parts of Elgin South i.e. within 3 “villages” and 11 “character areas”, each with their own character and identity together with the provision of transport, drainage, open space and landscaping infrastructure, etc.

From Table 1 (below), the current permission for the Phase 1 Elgin South development is located within all or parts of the three villages and five character areas.

TABLE 1: LOCATION OF AREAS FOR DEVELOPMENT WITHIN PHASE 1

Masterplan Village	Masterplan Character Area	Area to be developed within Phase 1	Total number of dwellings	
			16/01244/APP	18/01209/APP
Glassgreen	Crescent South Glassgreen	Crescent North South Glassgreen* Primary School	64 131	64 131
Linkwood	Central Park	Moray Sports Centre Primary School** Village Garden*	84	66
Easter Linkwood	Meadows Village Core	Meadows North Meadows East Village Core*	143 224 224	143 230 236
			870	870

* may also include commercial, community, educational and recreational facilities

** now Linkwood Primary School (see application 17/01422/APP)

The larger part of the development is in the eastern part of Elgin South and on either side of Linkwood Road i.e. development at the Centre, the site for Linkwood Primary School, and within Village Garden, Village Core, Meadows North and Meadows East. The smaller part of the development is located within the western part of the Elgin South site between Birnie Road and the A941 road i.e. development within Crescent North and South Glassgreen, with the latter also including a site for a primary school.

Other land within Elgin South and Masterplan area whether to the south of, or between, the areas included within Phase 1 will be subject to further application(s) for planning permission in the future.

As part of the current permission and within this latest application, 870 dwellings will be delivered within 4 (sub)phases i.e. Phase 1A, 1B, 1C and 1D. The total number of dwellings within Phase 1A is limited to 295 dwellings, in order to safeguard the impact of the development upon the A96 trunk road (Condition 23 of application 16/01244/APP refers).

From Table 2, as part of this proposed variation of the current permission, the rebalance of accommodation, as a variation to the current permission, includes additional affordable housing within South Glassgreen, within the earliest phase of the development. In addition, changes are proposed elsewhere within the development in order to maintain the total number of dwellings at 295 units for Phase 1A, and the total number of dwellings within the Phase 1 development (for all (sub)phases and all character areas) at 870 dwellings.

TABLE 2: PHASING OF DEVELOPMENT WITHIN PHASE 1 APPLICATION

Phase	Area to be developed	Total Number of dwellings		Timescale	Total Number of dwellings	
		16/01244/APP		16/01244/APP	18/01209/APP	
	Moray Sports Centre			2018		
	Primary School (Linkwood)*			2018, now 2019		
Phase 1A	Crescent North	64		2017-2022	64	
	South Glassgreen (part)	16			50	
	Village Garden*	84			66	
	Meadows North (part)	131			115	
TOTAL			295			295
Phase 1B	Meadows North (part)	12		2022-2030	12	
	Village Core*	224			236	
	Meadows East (part)	12			12	
TOTAL			248			260
Phase 1C	Meadows East (part)	212		2022-2030	218	
	Meadows North (part)				16	
TOTAL			212			234
Phase 1D	South Glassgreen (part)*	115		2022-2030	81	
	Primary School (Glassgreen)					
TOTAL			115			81
Housing (All Phases)			870			870

* may also include commercial, community, educational and recreational facilities

** now Linkwood Primary School (see application 17/01422/APP)

An application under Section 42 of the 1997 Planning Act seeks to provide a new planning permission but with different conditions from those attached to a previous permission for that development, in this case in accordance with alternative phasing, design and site layout arrangements in accordance with the latest 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).

THE PROPOSAL

- 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, in particular:
 - 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 easternmost part of Phase 1A (Meadows North character area) and Phase 1C (Meadows East character area);
 - revise mix of homes new Braemar and Lauder house types and amended site layout details 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; and
 - revise numbers and mix of houses including site layout arrangements within Village Core and Meadows East character areas to accommodate 18 homes relocated from Village Garden.
- Information is also included to discharge conditions attached to application

16/01244/APP, focusing on the western (Crescent North and South Glassgreen (50 affordable houses)) part of the site and located within the (amended) Phase 1A boundary.

- From the current permission, the Phase 1 development (as amended) comprises 870 houses, neighbourhood uses including Class 1 (Shops), 2 (Financial, professional and other services), 3 (Food and drink), 4 (Business), 8 (Residential institutions), 10 (Non-residential institutions), a Moray Sports Centre (with indoor and outdoor recreation), sites for two primary schools and associated infrastructure including transport, drainage, open space and landscaping.
- For Phase 1, the distribution of residential, neighbourhood and other non-residential uses within the current permission and this latest application is shown in **Appendix 2**, Table 1.

SITES FOR PRIMARY SCHOOLS

- Two sites for future primary schools are included/identified but no (internal) building design and site layout arrangements for each school are included. Each site will be the subject of a separate application(s) for planning permission (by others). The site for the primary school at Linkwood is now the subject of a separate grant of planning permission (see History).
- The Linkwood Primary School site is approx. 2.43ha (6 acres) and located within the Central Park character area and adjoined by Village Garden to the east and the Centre to the north-east. Access to the school site is from Linkwood Road and the westward extension of a new 6.1m wide road (identified as a bus route) plus foot and cycle path arrangements located along the southern boundary of Village Garden.
- The Glassgreen primary school site is approx. 1.8ha (4.15 acres) and located within, and along the southern edge of, the South Glassgreen character area. Access to this primary school site will be from a new 6.1m wide road (identified as a bus route) plus foot and cycle path arrangements to be formed off the A941 road and located along the eastern and southern boundary of South Glassgreen. This character area will also be accessed by roads and/or foot and cycle path arrangements from Crescent North to the west and existing/proposed residential development on Duncansfield and the Driving Range (now The Range), both located across an existing track to the north.

MORAY SPORTS CENTRE [the Centre]

- No details regarding the design and site layout arrangements for the Centre are included within this latest application but from the current permission, the Centre is set within an 11.14ha site.
- As approved under the current permission (prior to revision), the Centre comprises an approx. 6000sq m multi-functional building, with a mono-pitch roof sloping down from north-east to south-west (from approx. 13.1m to 10m high), with internal and external sport and recreational facilities.
- Proposed external finishes include a grey standing seam aluminium roof, white metal cladding panels and vertical timber cladding on the side wall elevations.
- Internally, the Centre includes a 460sq m athletics/gymnastics hall and a 1518sq m (8-court) games hall with 'bleacher' (retractable) seating, both with their changing rooms, plant and machinery and storage areas etc together with a central reception area and security point which will give access to a members' lounge area and external terrace which will overlook the outside sports area to the south. The upper floor areas include social spaces, classrooms, studio spaces, office and meeting rooms, and an elite training facility.

- External sports facilities, located to the south of the Centre, include two pitches (for rugby and football) i.e. one grass and one 3G pitch, both 154 x 90m; an approx. 3m wide, 1km 'circular' running track extending around the perimeter of the outside sports area; an approx. 6m wide, 138m long sprint track; and 6 outdoor tennis courts. (A 4-court indoor tennis facility has been approved over the site of, and as an alternative facility to the outdoor tennis court area (see History).
- 1.8m high weldmesh fence to be erected around the perimeter of the outside sports facility area.
- Access to the Centre is from Linkwood Road with separate in and out access junctions together with drop-off, motorcycle, and disabled parking located at the front of the Centre and 248 parking spaces located along the northern boundary of the Centre.
- Public water supply and foul drainage connections are proposed together with on-site surface water drainage arrangements incorporating SUDs located on the site prior to discharge to the Linkwood Burn. Surface water drainage arrangements for the external sports pitches and courts will be subject to specialist drainage design details.

870 DWELLINGS

- Within Phase 1, and as amended, 870 dwellings (houses and flats/apartments) are proposed i.e. 652 private dwellings (including 93 potential accessible homes), and 218 affordable houses (**Appendix 2**, Tables 1, 2 and 3 refer).
- The number of dwellings, tenure, mix (or allocation) of house designs (and site layout arrangements) vary between each sub phase and/or area to be developed.
- Except where new house designs are proposed, e.g. Braemar, no design details of the house types are included: these remain unchanged from those approved within the current permission. Property will vary in size between 1 and 5 bedrooms; in scale (or height) from single to two-storey dwellings (bungalows and houses); and in form, with detached, semi-detached and terraced housing and two and three storey flat/apartment blocks, the latter providing between 2 and 8 units of residential accommodation.
- Private (ground floor) accommodation is identified as potential accessible housing and within some flat/apartment blocks, 1 or 2 ground floor units are identified for non-residential uses within Use Class 1, 2, 3, 4 and 10.

Private houses and apartments

- 652 private houses include 414 dwellings and 238 apartments as proposed across all areas of development (or 386 dwellings and 173 apartments excluding accessible housing).
- 19 different house types provide 239 (single and two-storey) detached houses, 130 semi-detached houses and 41 (3- or 4-unit) terrace homes.
- 3 house types provide 33 single-storey (bungalow) (properties) which range from approx. 5.5 to 6.8m in height.
- 16 house types provide 204 dwellings, all 1½ - 2 storey in appearance and varying in height from approx. 7.4m to 9.1m.
- 12 different flat/apartment types provide 238 units of accommodation located within and across all Phase 1 areas with the Auldearn (112 units), a block of 4 flats, approx. 8.7m high, with two first floor and two ground floor flats being the most numerous.
- The Glassgreen and Cottage apartments are approx. 10m and 9.3m (max.) respectively. In Village Core, two first floor cottage apartments are located above two ground floor Class 1 retail units.
- Other 2-storey apartments, approx. 9.3m in height, provide up to 2, 3 or 4 residential units, all with 2 first floor apartments located above either 1 or 2 apartments or 1 or 2

non-residential (Class 1, 2, 3, or 4) uses on the ground floor (T-flats: T2 series). Some of these apartment units are identified as potential accessible housing.

- In Village Core, 3-storey apartment blocks, approx. 12m in height, each provide between 4 and 6 residential units, all with 2 apartments located at first and second floor level above either 1 or 2 apartments or 1 or 2 non-residential (Classes 1, 2, 3, or 4) uses on the ground floor (T-flats: T3 series).
- In Village Garden, a 3-storey apartment block is proposed at the entrance off Linkwood Road with 5 apartments and a ground floor Class 1 shop unit (T-flats: T3-V1(C-RU)).

Accessible housing

- 93 potential accessible homes are proposed, including 27 single-storey bungalows located across all character areas. Only one 2-storey accessible house (Crossley) is proposed within Village Core. The remaining accessible accommodation is provided within ground floor flat/apartments including 44 Auldearn units located within all areas proposed for development.
- Drawing EL44_SL_12 Rev H refers to 105 private plots (17%) as capable of accommodating accessible housing but from **Appendix 2** and the 'housing mix drawings for each character area, only 93 units are identified.

Affordable houses

- 287 affordable homes, with 1- to 5-bedrooms, are proposed within all Phase 1 areas except Crescent North.
- 63 homes are single-storey dwellings provided within 4 different detached or semi-detached house types, some with an attached car port.
- 4 different two-storey house types provide 74 units, up to approx. 8.5m high (max.), in detached, semi-detached homes and terraced format.
- Affordable accommodation within flat/apartment units are proposed within all character areas except Crescent North. This includes 9 affordable houses within flat apartment designs located within Village Core.

Other uses (non-residential)

- No details for these uses are included in the latest application but from the current permission, 34 non-residential units/uses are proposed including 29 units located within Village Core, 4 within South Glassgreen and 1 within Village Garden.
- Excluding two detached buildings, 32 (of the 34) non-residential units/uses are located on the ground floor of various apartment buildings and intended for use(s) within Use Classes 1, 2, 3, 4 and/or 10 (with all identified units subject to future agreement).
- Within Village Core, non-residential uses are located along a 'Main Street', an area already approved within the current permission which will include a Village Green and a Market Place. The latter is intended as a multi-purpose 'square' designed as a flexible space to allow for different uses and activities.
- The detached Village Core Building A is identified for Use Class 10 although on drawing EL44_VC_06 Rev F, this building is also referred to as 'Village Hall'. Located at the north-eastern end of Main Street, this building is approx. 10.7m high with all accommodation provided on a single (ground) floor.
- The detached Village Core Building B is identified for Class 3 although on drawing EL44_VC_06 Rev F this building is referred to as 'Village Hall' and includes an outside 'Speakers Corner' area. Located at the south-western end of Main Street, this building is approx. 13.7m high and has ground and first floor accommodation.

External Finishes

- External finishes vary between, and give different identity to, each character area of development. Within the current permission, drawing EL44_MC_00 provides a schedule of finishes (or "Conditions") for each residential area of development within Phase 1 (Conditions 1 - 6), and for non-residential uses (Condition 7). Within the current application, further specification of wall and surface treatments is included, notably for Crescent North South Glassgreen, Village Garden and Meadows North.
- Although different materials are identified, some materials will be used on dwellings throughout all Phase 1 development character areas, for example graphite (slate grey) concrete roof tiles, natural slate on 'accent/feature' buildings within Meadows North, Village Core and Village Garden, or grey standing seam roofs for 'Condition 7' buildings. White render is the main finish together with coloured smooth render walls, timber or synthetic stone cladding on accent buildings/elevations and smooth cement or stone/blockwork basecourse.
- For each residential development areas, the proposed plot boundary treatment will include 0.9m high feature wall or hedge/fencing to frontage of plots and 1.8m high timber fencing or walls to side/rear of plots.
- Additional masonry features include walls and railings, loc bloc (grey or buff) paving, post and wire and paddock fencing.
- Information about the proposed use of air source heat pumps and the design of bin stores are also included.

Landscaping

- "Soft" landscaping arrangements include hedging and semi-mature, heavy standard and multi-stemmed feature and amenity trees and shrub planting together with bulb, ornamental, orchard and meadow planting both within and/or located beyond residential plots including areas identified as a formal green, park, memorial garden (within Village Core), gardens and meadows to south of Village Garden, and (cherry) orchards and meadows within South Glassgreen, Meadows East and Meadows North, together with a large green space area referred to as Barmuckity Meadows (some planting specifications included).
- A play area is proposed within Village Core and Meadows East (indicative details of equipment included).
- Existing woodland to be retained/supplemented, for example with additional woodland planting located between Crescent North and South Glassgreen.
- Along Linkwood Road, trees will be removed due to structural defects, or for visibility, as part of the formation of five new access junctions and other pedestrian/cycle crossings. Whilst several existing trees will be retained and supplemented, new (feature and compensatory) planting is proposed along Linkwood Road once modified and along new foot/cycle paths which run parallel to, but set back from, Linkwood Road (on both sides of the road).
- In the western part of the site, advance (structure) planting is proposed, for example between Crescent North and South Glassgreen (by March 2019) and between these character areas and the existing/proposed (Duncansfield/The Range) development to the north, and on land outwith Phase 1 but located along the southern boundary of the Elgin South designation.
- In the eastern part of the site, advance planting is proposed along the northern and eastern sides of residential development within Meadows North and Meadows East (specific timescale not indicated other than reference to planting season preceding commencement of development), including areas along the Burn of Linkwood and its tributary, the proposed Barmuckity Meadows and beyond the Phase 1 application

boundary both in the south-eastern corner and along the southern boundary of the Elgin South designation.

- Landscaping details are supplemented by information about plant and stock specifications (to accord with BS standards), measures to protect/support trees and maintain all landscaping arrangements, and in some cases a timescale(s) for planting is indicated.
- 'Hard' landscaping is also included, for example common paved surfaces (where local streets have a shared surface) or parking areas, and various street furniture is also proposed within Main Street within Village Core (detailed specifications not included).
- Across the development, locations for Public Art are identified within all areas of development except within South Glassgreen and Village Garden (details of art installation(s) not included).

Access and parking

- Access to Crescent North is from a new single access junction with a new 5.5m wide road formed off Birnie Road. An emergency access will also be formed onto Birnie Road towards the south western corner of this character area.
- Access to South Glassgreen, including the site for a primary school, to be taken from new access junction with 6.1m wide road (bus route) formed off the A941 road together with road and foot and cycle connections between South Glassgreen and the existing Duncansfield/The Range developments to the north. Two additional foot and cycle connections are proposed to/from land areas to the north east of South Glassgreen.
- Between Crescent North and South Glassgreen, three foot and cycle path connections only are proposed.
- Future (vehicle, foot and cycle) access connections are indicated between all character areas and future areas for development within Elgin South.
- 5 new access priority junctions are proposed onto Linkwood Road including two separate ('in' and 'out') access junctions for Moray Sports Centre; on the western side of Linkwood Road an access junction with a 6.1m wide road (bus route) will be formed to serve Village Garden, the Linkwood Primary School site and other development areas proposed to the west and south; and on the opposite (eastern) side of Linkwood Road, two access junctions are proposed each with a 6.1m wide road (bus route) to serve Meadows North, Village Core and Meadows East. This latter road layout extends around the perimeter of Village Core and through 'Main Street' with locations for bus stops indicated.
- Extending north east from the north-eastern corner of Village Core, and acting to separate Meadows North and Meadows East, a 6.1m wide route is identified as a 'link road to A96 from Linkwood Road' in the Masterplan. A network of roads extends off this bus route to serve residential areas within Meadows North, Village Core and Meadows East.
- Throughout the eastern areas of development, provision is made for pedestrian and cycle paths both within and between different character areas including both formal paths and informal "mown" paths, etc.
- Throughout the development, car parking is provided within communal parking areas located adjacent to, or adjoining, residential property and other non-residential buildings including parking areas located behind buildings along 'Main Street' within Village Core, or "in plot" parking for residential plots located either to the side or in front of property.

Water Supply, Foul and Surface Water drainage

- Public water supply connections and separate foul and surface water drainage arrangements are proposed for all character areas.
- A network of foul sewers will collect and convey foul flows by gravity to two proposed pumping stations, one for the western area of development and located adjacent to, and on the north side of, South Glassgreen, and one to serve the remainder of the development (to be located on the eastern side of Meadows North).
- Separate drainage arrangements have been approved for the Centre and Linkwood Primary School. From the pumping stations, foul discharge will be pumped to the public sewer network.
- The proposed surface water drainage network will include on-plot disposal, filter drains, carrier drains and attenuation basins and new outfalls to the Burn of Linkwood and/or its tributary. Subject to investigation and where feasible, infiltration-based drainage systems may be proposed along with swales and dry basins incorporated into public open spaces, to provide further treatment and storage volume. Except where infiltration only is proposed within Crescent North, (attenuated) surface water discharge from SUDs features will discharge to the Linkwood Burn.
- No detailed strategy and design of surface water drainage arrangements are included for the eastern part of the development, and separate arrangements have been proposed/approved for the Centre and Linkwood Primary School, also discharging via separate outfalls to the Linkwood Burn.

SUPPORTING DOCUMENTS

- In support of the current application, the applicant's Supporting Statement identifies that documents submitted with application 16/01244/APP are of relevance to this proposal including the application particulars and drawings, Design and Access Statement (including Accessible Housing Compliance Statement) (revised); Urban Design Statement Checklist and Quality Audit; Sustainability Statement and Climate Change Checklist; Flood Risk Assessment; Drainage Impact Assessment (including an addendum (January 2018)); Construction Surface Water Management Plan; Transport Assessment (including Travel Plan) (September 2016); Construction Traffic Management Plan; Noise Impact Assessment (NIA) (revised February 2017); Air Quality Assessment (September 2016); Construction Environmental Management Plan, Archaeological Written Scheme of Investigation; Site Investigation Report (including Contaminated Land Assessment); Tree Survey; Habitat and Protected Species Survey (Confidential) and Landscape Strategy, Plan and Maintenance Schedule.

THE SITE

- The Phase 1 application covers approx. 82.97ha and forms part of the Elgin LONG2 site designation (approx. 204ha).
- Phase 1 comprises two areas located immediately south of the existing settlement boundary of Elgin.
- The larger (eastern) area is approx. 62.99ha and straddles Linkwood Road. The Linkwood Burn, Linkwood Distillery and existing/approved areas of housing are located beyond the site to the north with a former railway line (now Core Path EG06) bounding the site to the west, and with agricultural land to the south and east.
- The smaller (western) area (approx. 19.98ha) is located between Birnie Road (with Elgin Golf Club beyond) to the west and the A941 road to the east together with

agricultural land to the south and east, and the existing/approved (at Duncansfield/The Range) developments to the north.

- Generally, the existing land-use within Phase 1 (and for much of the larger Elgin LONG2 designation) is mainly agricultural with some isolated buildings and woodland areas, including trees along the Linkwood Burn and Linkwood Road.
- Trending north-south through the designation/site are existing roads and footpaths including Linkwood Road, the A941, Birnie Road, and Core Path EG06. These routes bound or bisect the western and eastern areas of the site.
- The site is not subject to any site-specific designation in relation to landscape, nature conservation or cultural heritage interests except for trees along the Linkwood Burn (which are subject to a Tree Preservation Order and included on woodland inventories), and areas of known archaeological interest. Parts of the site are also identified as being of prime quality (Class 2 and 3.1) agricultural land or land liable to flooding.
- In addition to existing water supply, effluent drains and utility services crossing the site, a notifiable high-pressure gas main crosses through both parts of the Phase 1 application site (and/or the larger Elgin LONG2 designation). A gas transmission station is sited adjacent to Linkwood Road and located just beyond the south-eastern corner of the site, opposite an existing property, Firview.
- The site for Linkwood Primary School is approx. 2.43ha, triangular in shape, and bounded by a disused railway line to the west (EG06), the grounds of the Centre to the north-east, and Village Garden area to the east. Existing farmland to the south is also identified and designated for landscaping and future development as part of the Elgin LONG2 designation.
- The primary school proposed at South Glassgreen is approx. 1.8ha and bounded on all sides by proposed development on South Glassgreen except along its southern side where land to the south, beyond the access road, is identified for development within the Elgin South Masterplan/Elgin LONG2 designation.
- From the MLDP 2015, the Phase 1 site (both areas) is located within the Elgin "Countryside Around Towns" designation i.e. land located immediately beyond the settlement boundary of Elgin, as currently defined.
- The Phase 1 site is also part of the Elgin South designation, one of two designations intended to indicate the future longer-term direction of development and growth of Elgin. The MLDP 2015 LONG sites are not proposed for development during the currency of the MLDP 2015 and their release, in whole or part, is controlled through other provisions within the MLDP 2015, in particular Policy H2 (**Appendix 1**).

HISTORY

18/01603/S75 - Proposed modification of legal agreement for Phase 1 development at Elgin South to apply to both planning applications 16/01244/APP and 18/01209/APP at Elgin South LDP 2015 Long 2 Elgin Moray - currently under consideration.

17/01710/APP - Erect indoor tennis court centre at Moray Sports Centre Linkwood Road – approved 20 June 2018, an indoor 4-court tennis centre to be sited/located over part of the site of an earlier approved 6-court outdoor tennis facility, both located within the external grounds of the Centre. The indoor facility was approved as an alternative and/or replacement facility to an outdoor tennis facility approved as part of application 16/01244/APP.

17/01422/APP - Erection of a new primary school with associated external hard and soft

landscaping, fencing, car parking, playground lighting, sprinkler housing, external equipment stores, cycle shelters and external refuse store at Elgin South - approved 20 June 2018, the proposal being sited on land already identified and approved as a site for a primary school (under the current permission) and, in addition, Moray Council agreed to release part of this Elgin LONG 2 South designation in 2016 (see below). Initially, the school development will appear isolated and detached from other development within Elgin South but, over time, further development within Elgin South, whether already approved or planned within subsequent phases of development, will help to integrate and provide a context and setting for this school which will, along with other community facilities, provide a focus for development within a new village to be formed at the centre of Elgin South.

16/01244/APP – Application for Phase 1 of Elgin LONG 2 south to include 870 houses, neighbourhood uses including Classes 1 Shops, 2 Financial Professional & Other Services, 3 Food & Drink, 4 Business, 8 Residential Institutions, 10 Non-Residential Institutions, Moray Sport Centre (with provision for indoor and outdoor recreation), two primary school sites and associated infrastructure (transport drainage and open space) and landscaping at Elgin South - approved 10 May 2018, after consideration as an acceptable but significant departure from the development plan and subject to planning conditions and prior completion of a Section 75 agreement regarding planning obligations including timescale(s) towards primary and secondary education and healthcare facilities; provision of sports pitches, either as part of, or as an alternative to, those being provided by the Centre; arrangements to deliver the Primary School (Linkwood) including transfer of ownership of site, provision of initial temporary (pedestrian and vehicle) access and thereafter permanent access, and service infrastructure (mains water, electricity, gas, foul drainage, surface water drainage and telecommunications); and transfer of ownership of school site (Glassgreen). [Minutes of Special Meetings of the Planning & Regulatory Committee and Moray Council held on 27 June 2017 refer].

Following issue of the current permission, development commenced on 21 May 2018 with construction of the Centre now underway. A revised (reduced) footprint for the Centre was accepted as non-material variation and the building will be provided as an initial phase of development to be followed by the external sports facilities. Prior to commencement, information was provided to discharge conditions for the Centre building only although information to discharge other conditions has also been submitted and/or accepted for other aspects of the Phase 1 development.

16/00053/PAN - Proposal of Application Notice for proposed residential development (potentially including some student residential accommodation); potential associated neighbourhood uses within Class 1 Shops, Class 2 Financial, Professional and Other Services, Class 3 Food and Drink, Class 4 Business, Class 8, Residential Institutions, Class 10 Non Residential Institutions [current Use Classes Order 1997 refers]; sports centre (with provision for indoor and outdoor sports and recreation); two primary school sites; associated infrastructure (transport, drainage and open space) and landscaping on land at Elgin LONG 2 - response (2 February 2016) confirms the requirements for consultation with the local community. The Planning & Regulatory Services Committee (on 26 February 2016) later advised that consideration should be given to providing an access from the A941 road early within the development, to address existing traffic pressures including congestion within the Elgin road network [paragraph 13 of Minute refers].

15/02250/SCN - Screening Opinion for Phase 1 with proposed residential development (approx. 850 houses, including affordable housing provision and potentially some student residential accommodation), sports centre (with provision for indoor and outdoor sports and recreation and an ancillary restaurant), two sites for local authority primary schools (for approx. 450 pupils), potential associated neighbourhood uses within Class 1 Shops, Class 2 Financial, Professional and Other Services, Class 3 Food and Drink, Class 4 Business, Class 8, Residential Institutions, Class 10 Non Residential Institutions (Use Classes Order 1997 refers) together with associated infrastructure (for example roads, drainage, services, and open space) and landscaping at Elgin South - formal Screening Opinion adopted/issued on 11 February 2016 where, under the Environmental Impact Assessment (EIA) Regulations 2011, and after taking account of the character and location of the development and its characteristics of potential impact, the proposal, as a 'Schedule 2 development', would not be likely to result in significant environmental effects, hence the proposal was not EIA development and formal EIA procedures were not required.

1 November 2016 - After consideration, the Planning & Regulatory Services Committee agreed to delegate authority (to Head of Development Services) to approve the final Elgin South Masterplan subject to additional information requirements to address outstanding transportation issues, and that the final version of the Masterplan, as Supplementary Guidance, be used as a material consideration in the determination of planning applications within Elgin South [paragraph 8 of Minute refers].

30 May 2017 - After consideration, Planning & Regulatory Services Committee agreed to approve the Elgin South Masterplan as supplementary guidance to be used as a material consideration to be given significant weight in the determination of planning applications relating to the Elgin LONG2 South designation [paragraph 6 of Minute refers].

14 June 2016 - After consideration, the Planning & Regulatory Services Committee agreed to release part of the Elgin LONG2 land area into the effective land supply for the provision of a new primary school, sports centre and approximately 150 housing units (an area bounded by the former railway line to the west, Linkwood Burn and Linkwood Distillery to the north, Linkwood Road to the east and field areas to the north and north west of Firview) [paragraph 17 of Minute refers]. The new primary school and sports centre identified in the (draft) Elgin South Masterplan were considered to meet the triggers for release under Policy H2 but a block of land to be released for approx. 150 houses was regarded as a departure from the triggers under Policy H2 but necessary for compliance for Policy PP3 place-making purposes to provide a more active space, overlook key buildings and sports facilities, and encourage the early build out of this block to minimise disruption on the primary school.

30 May 2017 - After consideration, the Planning & Regulatory Services Committee agreed the finalised Moray Housing Land Audit (HLA) 2017 [paragraph 10 of Minute refers]. With an established effective housing land supply in excess of 5 years, and after assessment against the triggers used to control the release of LONG sites (as agreed in June 2016), there is no need to release additional LONG sites through the HLA to meet the minimum housing land requirements of Scottish Planning Policy (SPP).

19 June 2018 - After consideration, the Planning & Regulatory Services Committee agreed the finalised Moray Housing Land Audit (HLA) 2018 [paragraph 6 of Minute refers]. With an established effective housing land supply in excess of 5 years, and after assessment against the triggers used to control the release of LONG sites (as agreed in

June 2016), there is no need to release additional LONG sites through the HLA to meet the minimum housing land requirements of Scottish Planning Policy (SPP).

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.

CONSULTATIONS

Building Standards Manager - Building Warrant required.

Planning and Development - The application proposes a change to condition 1 of application 16/01244/APP, the first phase of the wider Elgin South masterplan area for 870 houses, neighbourhood uses, two primary schools, infrastructure and landscaping. The Phase 1 application (870 units) was sub-divided into 4 phases with Phase 1A, for delivery between 2017 and 2022, and Condition 23 of approved consent limiting Phase 1A development to 295 dwellings until improvements to the A96 trunk road have been made. In seeking to deliver 50 affordable homes as part of Phase 1A, this would represent an increase in numbers from the approved consent but, in order not to go over this limit and meet the Council's affordable housing requirements, modifications to future phases are proposed to retain the number of units in Phase 1A to 295 and the wider Phase 1 to 870. The proposal has also been amended due to the location of the gas pipeline being revised, resulting in 18 units being moved into future phases.

The proposed changes to Crescent North, Meadows East, South Glassgreen and the Village Core are minimal with the majority of the proposed units sitting on the footprints of the approved consent. The biggest change is to Village Garden, amended due to the revised location of the gas pipeline. The revised plans could be deemed acceptable in terms of numbers and siting.

There are concerns relating to drainage arrangements as raised by consultees, and that several plans do not match. One layout plan, for Village Core, shows an area of open space as a "formal green" with grass and tree planting, as per the approved consent, but on other plans, this space will contain one or two large SUDs ponds. As one of the densest character areas, this area of open space must be retained as a usable "formal green" and not used for SUDs. Clarity is sought about where SUDs will be located, which could potentially impinge on open space areas and the overall layout of each character area.

Planning & Development Obligations – As the total number of units remains the same in the current application 18/01209/APP as application 16/01244/APP, no further financial obligations will be required.

As part of a separate review of the School Estate and School requirements, a larger school at Glassgreen may be required, with expansion suggested to the south of the site as currently defined. This will be addressed as a separate matter from the current application, for example before or during the development of the school project which will

require to be the subject of a formal application for planning permission. The need to change the school site does not arise from the current Section 42 application.

Environmental Protection Manager – No response at time of report.

Moray Access Manager - No response at time of report.

Waste Management Officer - No objections.

Environmental Health Manager - No objection subject to the conditions of application 16/012244/APP being implemented in conjunction with this development, where relevant.

Contaminated Land – No objections.

Transportation Manager – No objections subject to conditions (as specified) from the previous consent (16/01244/APP) being adapted and/or applied to this application, and informatives as recommended.

Transport Scotland - Does not advise against granting of permission.

Moray Flood Risk Management – No statement has been provided detailing changes or impacts on the drainage layout and justifications of these amendments. Details have not been provided and drawings show different layouts with many supplying no legends. It is unclear and more details need to be provided. For Crescent North and South Glassgreen, the requirements for Conditions 15 and 16 still apply.

Flood Risk Management are advised that no changes are needed/proposed to supporting documents including (the previously submitted) Flood Risk and Drainage Assessments, however there are several proposed amendments to the drainage layout which require more detail. If the site layouts and the number of houses have been changed in each character area, this will warrant updated calculations to ensure that SUDs can accommodate the change in design.

[Officer note: After setting out some detailed comments for each character area, the response seeks further information from the applicant including a revised drainage strategy, calculations and a plan which includes proposed amendments, and a statement describing the changes to the drainage scheme/layout to address comments within the response etc. A finalised surface water drainage scheme is required that meets condition 16, 17, 18, and 27 in full, and all required information should be clearly referenced so it can be easily checked against each bullet point within each condition].

TMC Housing & Property Manager - No objections subject to conditions as recommended. The proposal aims to facilitate timeous delivery of 50 affordable houses for rent in Phase 1A, which is welcomed.

Policy H8 requires 25% of the total number of units in new developments to be affordable housing. For 870 houses, an affordable contribution of 218 units is required but only 217 affordable units are shown (at time of consultation), hence condition recommended that the proposal comply with Policy H8. Delivery arrangements are agreed with Housing and Property and external materials, colours and finishes should provide a tenure-neutral appearance across the development.

[Officer note: the proposal has since been amended to provide 218 affordable units].

Under Policy H8, the developer is requested to contact the Council to determine the required mix of affordable units and provide the size and type of housing to meet current need for affordable housing as identified in the Local Housing Strategy. In August 2018, Housing and Property provided a revised indicative affordable housing mix, to progress the proposals but this is not wholly reflected in this current proposal. The affordable housing mix has been agreed for South Glassgreen (50 units) and Village Garden (25 units) but not for the remaining 143 affordable units. The requirements for affordable housing may change as the phasing plan is implemented and the site is built out, therefore the housing mix for each remaining character area shall be agreed at a time closer to delivery.

Policy H9 requires 10% of private sector units to be built to wheelchair accessible standards. Assuming 218 affordable units (not 217), 652 private sector units would require 65.2 accessible units (rounded up to 66 units), of which 50% (33 units) must be single storey units. From the accessible units shown, 33 are single storey units, therefore the requirements of Policy H9 are met.

TMC Education - No objections to vary Condition 1 following discussion on the nature and scope of the application, which does not propose to vary the site for the school as approved under the current permission, 16/01244/APP and the changes promoted within the current application do not necessitate alteration of the school site boundaries.

As part of a separate review of the School Estate and School requirements, a larger school at Glassgreen may be required, with expansion suggested to the south of the site as currently defined. This will be addressed as a separate matter from the current application, for example before or during the development of the school project which will require to be the subject of a formal application for planning permission. The need to change the school site does not arise from the current Section 42 application.

Aberdeenshire Archaeology Services - No objections but as per previous application, condition recommended requiring submission/approval of archaeological written scheme of investigation (WSI) with a programme of archaeological works to be carried out in accordance with the approved WSI, to safeguard and record the archaeological potential of the area.

The WSI shall include details about how recording and recovery of archaeological resources found within the application site shall be undertaken, and how updates to the written scheme of investigation will be provided, if required, throughout implementation of archaeological works programme. Should the works reveal the need for post excavation analysis, the development shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted/approved, with the PERD carried out in accordance with the approved details.

Some archaeological work has already been undertaken at the site but large areas across the site still require investigation. Whilst a WSI has been submitted previously, the programme of works can be undertaken across the site as a whole, in advance of development, as a single piece of work, or by area/phase in line with any proposed phasing timetable. If a phased approach is undertaken, the works would be discharged in

these phases with the condition remaining in place until all works are complete. When archaeological work is carried out on site, the review can be phase by phase or area by area based on the results of executed work.

Forestry Commission Scotland (FCS) - This amendment does not alter the tree protection and compensatory planting proposals approved under 16/01244/APP, therefore FCS's comments for that application stand for this proposal.

[Officer note: for application 16/01244/APP, FCS advised that they had no concerns and whilst a small shelterbelt would be cleared, on-site replanting would far exceed the area of woodland to be removed. FCS also welcomed the positive design in relation to trees and woodland, the retention of existing woodland areas, the programme of tree planting and the design and connectivity of green networks]

Scottish & Southern Electricity Networks (SSE) - No objections but there are high voltage overhead lines within the proposed development area. In relation to SSE's apparatus and when working in the vicinity of overhead lines, the developer should refer to Health and Safety Guidance Note GS6 and if any SSE apparatus requires to be diverted or moved in connection with the development, the cost will be borne by the applicant.

Health and Safety Executive – Does not advise on safety grounds against the granting of planning permission for this application. In relation to the phasing and site layout details, the proposed site layout changes are due partly to the results of a survey which confirmed the exact location of the high-pressure gas pipeline. This affects the layout of the dwellings on South Glassgreen and Village Garden which lie within the consultation distance of the pipeline. According to the proposed layout drawings for South Glassgreen, Village Core and Village Garden no dwellings will be sited within the inner zone of the HSE consultation distance (i.e. within 32m of the pipeline), not more than 30 dwellings will be located within the middle zone (within 70m of pipeline), and housing density within the middle zone will be less than 40 dwelling units per hectare.

Scottish Gas Networks (SGN) – Objection withdrawn subject to condition that new roads will not cross the pipeline. Any future amendments may affect the pipeline (including finished ground levels, planting of trees, and construction of paths within the pipeline servitude strip) and requirements on working within the vicinity of the high-pressure pipeline must be discussed with, and approved by, SGN prior to commencement of work. Excavations, stockpiling of material, vehicles crossing over the top of the pipeline, drilling, piling and the siting of temporary structures of cabins and containers are activities that can have an effect and this list is not exhaustive. SGN advice should be sought if in doubt. Should the extent or design of the permission be amended, SGN may require further consultation with the applicant. The developer has consulted with SGN and agreed working methods necessary to safeguard the security of the pipeline.

SEPA - No objection to vary Condition 1 which sets out the phasing, design and site layout details. This application proposes no changes on matters in relation to SEPA interests.

In terms of regulatory advice, a Controlled Activities Regulations (CAR) construction site licence will be required to manage surface water run-off from a construction site, including access tracks and as site design may be affected by pollution prevention requirements, the applicant is strongly encouraged to engage in pre-CAR application discussions with the SEPA regulatory services team. Below identified thresholds, the applicant will need to

comply with CAR requirements with all reasonable steps taken to ensure that discharge does not result in pollution of the water environment, and details of how this is achieved may be required through a planning condition. Details of regulatory requirements and good practice advice is available from SEPA (via website or local office).

SNH - No comments.

Scottish Water – No objection but this does not confirm that the development can be serviced. Unable to reserve capacity at water and/or waste water treatment works for the development. Once a formal connection application is submitted, after planning permission has been granted, Scottish Water will review available capacity and advise accordingly. According to records the proposal will impact on existing asset infrastructure within the boundary and any potential conflicts should be identified by the developer as this may place restrictions on proximity of construction.

[Officer note: the response also includes information about surface water, general notes and next steps information].

Elgin Community Council - No objections.

Innes Community Council - No response at time of report.

Heldon Community Council - No response at time of report.

OBJECTIONS-REPRESENTATIONS

None

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Plan 2015 (MLDP) unless material considerations indicate otherwise. The main issues are considered below.

Section 42 application

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

In this case, the current permission (16/01244/APP) provides for 870 houses, neighbourhood uses, a Moray Sport Centre (with indoor and outdoor recreation), sites for two primary schools and associated infrastructure in accordance with approved phasing, design and site layout arrangements, etc. as set out within that permission including (amended) drawings EL44_SL_05 Rev D (Overall Site Plan showing Character Areas Locations) and EL44_SL_09 Rev E (Site Layout showing Proposed Phasing within Phase 1).

In order to vary Condition 1 of application 16/01244/APP, the current application now seeks to provide the same elements of the development as before, including 870 houses, but in accordance with alternative phasing, design and site layout arrangements, etc as

now shown on the submitted (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).

For Section 42 applications, the consideration is about the conditions to be attached to any resultant new permission. From Circular 3/2018 (Development Management Regulations), if the decision does not alter or effect the previous permission and/or it should be granted subject to the same conditions as before then the application should be refused. However, if permission should be granted subject to different or no conditions these should be attached to the new permission along with conditions from the previous permission where it is intended that these should apply. Where appropriate, the Council, as Planning Authority should also ensure that the permission is granted subject to the conclusion of any appropriate planning obligation. In this case a modification of the existing agreement relating to the current permission is required and is subject to consideration (application 18/01603/S75 refers).

The decision on a Section 42 application does not alter or effect the previous permission or conditions (which remain unaltered and are not varied), and although this Section 42 application, is in terms of development type, a major proposal it does not require to be subject to pre-application consultation procedures. The Regulations advise that the duration of the new permission should be as specified in Section 58 (or 59) of the Act although it is possible to direct and apply an alternative time-period. In this case no change to the (Section 58) 3-year period for the duration of the permission is sought or proposed.

Application as amended

Following its receipt and in response to consultation responses and after discussion, further amended drawings and additional information has been provided, for example to increase the number of affordable homes across the Phase 1 area from 217 to 218 dwellings (as required by Condition 11 of the current permission) and amended transport and drainage details. The extent of the amendments/revisions are limited and not considered to warrant further notification and advertisement procedures but, as noted, further consultation has been undertaken where required. The application is being determined based on the latest amended details.

The proposal also provides information which seeks to address conditions attached to the current permission, with the latter referring mainly to the western (Crescent North and South Glassgreen) part of the Phase 1 development area. Where possible, these have been considered, but some information remains subject to consultation at the time of this report.

Within the current permission, a number of “suspensive” conditions were applied requiring further information to be submitted/approved prior to development commencing (or another timescale as stated). Some of those conditions have already been discharged either in part or in whole, and within the current application information may be provided which now addresses (other) conditions attached to the current permission.

This latest (Section 42) application does not seek to further vary or remove conditions other than Condition 1 as identified, hence whilst those conditions can be re-attached to any new permission granted for this latest application, they can be “adjusted” to take account of the submitted information. For example, instead of conditions referring to all areas of residential development (Crescent North, South Glassgreen, Village Garden,

Village Core, Meadows North and Meadows East) if the subject information provided is acceptable for Crescent North and South Glassgreen, then the condition can be amended to only relate to other residential areas where the subject information still requires to be submitted.

The relationship of information received before and during consideration of this current application, including implications to re-iterate or amend conditions applied to the current permission is set out in **Appendix 3**.

Supporting Statement (SS)

The SS describes the procedure for determining Section 42 applications and confirms that the current permission has not lapsed, it is not incapable of being implemented, and the only issue before the Council, as Planning Authority is that of the conditions to be attached to the development. The SS identifies the background to the proposal by reference to the Masterplan and the current permission for Phase 1, along with more recent applications for the indoor tennis courts and Linkwood Primary School (see History).

The SS confirms the applicant's intention to commence delivery of homes in the western part of Phase 1A (80 homes as per the current permission including 16 affordable houses) however, according to the SS, Moray Council now wishes to see 50 affordable homes delivered in this area and requires works to commence on these homes early in 2019. The SS acknowledges that these cannot be accommodated within Phase 1A limit of 295 dwellings under the current permission except by a rebalance of development within other subsequent (sub)phases of the development as approved, in order to maintain both Phase 1A at 295 dwellings and the overall total of 870 dwellings for Phase 1.

The SS also highlights a required revision to the development due to the actual (surveyed) line of the safeguarded pipeline to the south of Village Garden to the west of Linkwood Road. This necessitates a reduction of 18 homes to accommodate the revised pipeline route and meet HSE safeguarding distance requirements. From the SS, the proposal here is to reintroduce these dwellings within Phase 1B and Phase 1C areas of the development (to the east of Linkwood Road), hence the revised phasing arrangements.

The SS notes the opportunity being taken to provide information to satisfy conditions of the current permission to reduce the number that need to be repeated on any new permission, and it highlights where information is included to address those conditions (of the current permission).

Taking these matters together and to accommodate the revised phasing and associated remix and design and site layout alterations, the SS concludes that Condition 1 of the current permission requires to be different i.e. varied, hence the current proposal. It also confirms, that the MLDP 2015 is still in effect, the policies under which the current permission was determined remain relevant in the context of the current proposal along with the approved Masterplan, and it highlights the pre-application comments provided by the Council's Planning & Development Section that the proposed changes *are "fairly minimal and do not have any significant impacts in terms of the approved Elgin South Masterplan"*.

According to the SS, minor alterations are now proposed to the distribution of homes within Phase 1, the adjustment will allow early delivery of additional affordable homes and allow the up-dated line of the pipeline route to be accommodated and it requests that the application be approved subject to conditions as necessary.

Application 16/01244/APP [the current permission]

From History, a Phase 1 development on land at Elgin South was granted for 870 dwellings (a mix of private (including accessible) and affordable accommodation, two sites for primary schools and a Moray Sports Centre.

With no material considerations to indicate otherwise and after a pre-determination hearing, this Phase 1 development was considered acceptable as a significant departure from the MLDP 2015. In relation to Policy H2 (**Appendix 1**) both the Centre and the Linkwood Primary School site were supported under a key objective trigger under Policy H2, being located in an area where the Council had already agreed to release land at Elgin South. It was also considered that without prejudice, the release of the school site at Glassgreen could be similarly supported if so required in the future. However, it was accepted that the proposed locations and total number of dwellings (870), including those in the western part of the site (an area intended to be delivered as a final phase of the Elgin South development area) could not be supported for release nor meet housing land requirements under Policy H2.

The stated reasons for the decision to accept application 16/01244/APP as a significant departure were as follows:

- a masterplan has been approved which has been prepared collaboratively and has been through a quality audit process and complies with the Primary Policy on Placemaking (PP3);
- the release of Phase 1A and the remaining long designation which forms part of the application through a control mechanism will deliver development without compromising delivery of a master-planned approach and where appropriate access, infrastructure and landscape setting can be secured;
- the proposal in terms of its design, site layout and servicing arrangements is considered acceptable;
- it is considered to be compliant with place-making principles;
- it will not have an unacceptable or significant adverse effect upon the surrounding (natural and built) environment;
- both affordable and open market housing will be delivered on this site;
- sites allocated at R11 Findrassie (partly for five years) and other sites in Elgin such as Bilbohall have not delivered housing on the ground despite being allocated sites whereas this developer has brought forward four other allocated sites in Elgin;
- the associated economic benefits with the related development proposals will help to secure Elgin's future sustainable economic growth as the primary centre of Moray, acting as a catalyst for further investment complying with MLDP 2015 Policy PP1;
- the "quick and responsive" delivery of housing on the ground in response to the Scottish Government's national housing targets and Moray's aspirations to contribute to the wider agenda;
- the timing of the application relative to the Planning Review and the preparation of the next MLDP 2020 where Phase 1 is likely to be brought forward as the direction of growth for Elgin; and
- departure issues aside and in all other respects, overall and subject to conditions and agreement where required, the amended design and site layout arrangements for Phase 1 were considered acceptable, would accord with policy and respect the Masterplan and could be achieved without significant or unacceptable adverse effects on the surrounding natural and built environment. There were no material considerations that indicate otherwise.

Since the granting of permission for application 16/01244/APP the following can also be noted:

- development has commenced within Phase 1 with construction of the Centre now underway after the discharge of relevant pre-commencement conditions which required further details for the Centre. The confirmed discharge is solely in relation to the Centre building alone (and not to other elements or aspects of the Centre (external facilities) or other parts of Phase 1 where the same condition(s) apply and remain to be satisfied). A non-material variation was accepted to reduce the size (footprint) of the Centre building, and the initial phase of that Centre is upon the Centre building itself (along with associated transport and drainage infrastructure), whilst the external sports and recreational facilities will be provided later;
- as an alternative to an outdoor 6-court tennis area, a 4-court indoor tennis centre has been approved;
- following approval of the site for the primary school at Linkwood, a (detailed) permission for the design and site layout arrangements for the proposed Linkwood Primary School has been approved. Work is on-going to discharge “suspensive” pre-commencement conditions applied to that separate permission prior to development starting in early 2019;
- other conditions attached to the current permission have been considered and/or confirmed as discharged for all or part of the Phase 1 area, for example, Condition 21 regarding advance (structure) planting but only for the western and not the eastern part of the Phase 1 development; Condition 24 regarding archaeological investigation within parts of the Phase 1 area; Condition 26 regarding district heating network for the whole Phase 1 area after a feasibility study confirmed that delivery of such a network would not be feasible; and Conditions 36, 37 and 59 in relation to access and transportation improvements required/proposed along Linkwood Road;
- development plan policy has not changed, the approved MLDP 2015 remains in force and this latest application requires to be determined in accordance with this development plan unless material considerations indicate otherwise;
- the approved Elgin South Masterplan remains as a material consideration in the determination of applications at Elgin South; and
- at the time of this report, the MLDP 2020 is not yet a material consideration in the determination of this latest application, however it can be noted that the Elgin South area will no longer be subject to a LONG designation and the land areas, the subject of the current permission are being incorporated into site-specific residential designations where are expected to be delivered during the life-time of that Plan. The provisions of the Masterplan will also be integrated into the MLDP 2020.

Schedule 2 development (Environmental Impact Regulations (EIA) 2017)

Under the previous EIA Regulations 2011, as a schedule 2 development (for an urban development project exceeding 0.5ha), it was concluded that no significant environmental effects were likely to occur and therefore a Phase 1 development on Elgin South would not be an EIA development (15/02250/SCN). Under the current 2017 Regulations, the Phase 1 development would similarly be regarded as a schedule 2 development but as with the current permission this latest application would not be an EIA development nor subject to EIA procedures. Notwithstanding the change in Regulations, the development within this latest application and the current permission is consistent with that assessed previously.

The Regulations do not specifically provide for a proposal to vary the conditions of and earlier development but in context, this latest application does not promote new, or

additional, development nor does it alter the overall parameters of the development granted under the current permission in terms the locations and number of elements contained within the development. It will involve relatively small-scale and limited but not significant changes in environmental effects arising from changes in phasing, design and site layout arrangements. In addition, it will not introduce new or additional environmental effects, significant or otherwise, beyond those previously assessed. On this basis, the previous EIA assessment remains valid.

Moray Local Development Plan 2015

Although the focus of this latest application is upon the condition to be varied, the proposal remains subject to the MLDP 2015. As with the current permission and because of the nature and limited extent of change now being introduced, this latest application can also be regarded as being acceptable as a significant departure from planning policy relative to Policy H2, etc. This is due to the nature and limited extent of changes now being introduced. These remain within the scope to the current permission and a re-examination of the latest application would neither over-ride nor under-mine the terms upon which the current permission was granted. For this reason and with the prime focus of the current proposal being upon the conditions of the current permission, the current application was not advertised as a departure from the development plan.

Departure issues aside, and in all other respects but subject to conditions and agreement where required, the alternative phasing, design and site layout arrangements for this Phase 1 development remain acceptable, accord with planning policy and respect the Masterplan, and can be achieved without significant or unacceptable adverse effects upon the surrounding natural and built environment and there are no material considerations that indicate otherwise.

In consideration of these matters and relative to policy indicated in **Appendix 1**:

- the amendments including phasing revisions, do not result in an expansion of the overall Phase 1 area as already approved but rather they are contained within the approved Phase 1 area, as defined within the current permission;
- the change in housing mix results in relatively limited and small-scale but not significant internal changes within each character area, including substitution of one already approved house type for another, and often located/sited over the footprint of earlier approved house type. A limited and small-scale change or adjustment in the plot boundaries and site layout arrangements occur as a result. The greatest change occurs within Village Garden, where the amount of development is reduced, and the layout has been revised to accommodate the revised position of the safeguarded gas pipeline. Within Village Core where the density is increased slightly after additional housing is introduced.
- owing to the limited extent of alteration, the changes in housing mix, design and site layout do not significantly amend the consideration of place-making principles undertaken for the current permission. The changes do affect (increase) the provision of parking spaces, from between 3 and 25 additional spaces within Crescent North and South Glassgreen and Village Core respectively, yet there will be 32 fewer spaces within Village Garden. Taking account of the previously approved layout, the extent of changes now proposed, the locations of parking within character areas and from the previously accepted arrangements that parking is only one element in place-making and the development layouts within the current permission were nevertheless all considered to be acceptable and complaint in place-making terms (despite the quality audit identifying parking as “red”), the same considerations can be applied to the current application;

- in terms of affordable housing, 218 (not 217) dwellings are now proposed to satisfy Policy H8 (and condition 11 of the current permission). The distribution of such accommodation across all character areas, except with Crescent North is acceptable and unchanged from that included in the current permission however, all 50 affordable dwellings will now be delivered within Phase 1A rather than being split between Phase 1A and 1D. Following consultation but subject to longer-term delivery details being agreed, the Housing & Property Manager has confirmed that the mix of accommodation within South Glassgreen and Village Garden is acceptable, but the mix will require to be reviewed before development is progressed within other character areas;
- in terms of accessible housing, Policy H9 requires (for the current permission and this latest development) 66 accessible dwellings, to include 33 single-storey units of accommodation. This requirement is met, with accommodation provided in a similar distribution (in location, number and mix of accommodation) to that proposed/approved in the current permission but now, 93 instead of 92 accessible units are identified, and of which 92 of the 93 units are provided in single-storey format, whether as bungalows and/or ground floor flat/apartment accommodation;
- in terms of open space and landscaping, and with the proposed changes in phasing, house design and site layout arrangements occurring internally within the earlier approved house building area, the arrangements for open space are largely unaltered from the current permission although, as before, the extent of provision varies within and between character area. Drawing EL44_SL_08 L confirms that communal open space/landscaping is 44% of the application site excluding the Centre. This level of provision would satisfy Policy E5 but, as with the current permission, there is no calculation to demonstrate that 20% coverage is achieved for each character area;
- The 44% calculation is unchanged from the current permission but it would be reduced, by a small amount, if account is taken of a proposed SUDs basin (for Village Garden) located within a previously approved formal park area within Village Core (adjacent to Linkwood Road). This SUDs feature was included in an addendum of Drainage Assessment submitted in relation to the current permission (to discharge drainage details for the Centre) and it is also shown in drawings for Linkwood Road accepted as part of the discharge of Condition 36 of that current permission. A suggested alternative to replace the basin by a series of swales along Linkwood Road is no longer an option owing to existing services and already approved/proposed details for landscaping along the road. Although the potential loss of park area is regretted, particularly in the context of limited open space provision within the otherwise high density Village Core character area, it is recommended that whilst the detailed drainage design for Village Garden has yet to be agreed and if the surface water infrastructure cannot be relocated elsewhere then any such drainage provision with the park setting should be designed so as to minimise the recreational, amenity and bio-diversity value of that site as an open space/landscaped park area for Village Core (as approved as part of formal decision notice 16/01244/APP), thereby assisting Policy E5 requirements;
- As part of open space/landscape requirements, the current permission and current application include advance (structural) and other planting proposed beyond the built-up areas of each character areas including those in the western and eastern parts of the development. Landscape scheme details including timescale and maintenance arrangements are also included, in particular for Crescent North and South Glassgreen and these are considered acceptable in policy terms;
- in transportation terms, the submission details are acceptable subject to conditions included in the current permission, including the 295-dwelling "limit" to Phase 1A, to safeguard the impact on the trunk road. Conditions area also recommended regarding

internal public transport, road and parking, foot and cycle path requirements for each character area (where not already included in the submission) to ensure compliance with relevant policy;

- Information has already been provided/accepted to address and delivery within required timescales transport related improvements for Linkwood Road (Condition 36 and 59 of the current permission), for the Centre and separately for Linkwood Primary School. Some transport information is being considered for Crescent North and South Glassgreen but for other areas the information including road layouts etc has not changed since the current permission, hence the need to re-iterate the conditions attached to the current permission;
- As part of the submitted information, the contractor parking and construction compound arrangements for South Glassgreen only are not acceptable because these will encroach into the advance planting areas already agreed to be planted in the same location(s) by March 2019 and revised arrangements will be required;
- in drainage terms, proposed foul and surface water drainage details involving public connections and on-site dispersal will, in principle, continue to satisfy Policy EP10 and EP5. Detailed arrangements have been and are being addressed separately for the Centre and Linkwood Primary School respectively. Information to develop the proposed drainage strategy for Crescent North and South Glassgreen remain subject to on-going consideration but again for other areas, no further details have been provided. Previous arrangements to integrate drainage from Linkwood Primary School and Village Garden within the Centre are no longer being pursued and such elements now require to develop their own (amended) strategy and detailed disposal arrangements;
- as with the current permission, the current application is again considered to be acceptable rather than adversely impact on cultural heritage and nature conservation interests and planning policy subject to conditions where recommended. Archaeological information for the western part of the site and the Centre and Linkwood Primary School has already been accepted; and
- as with the current permission, the current application is again considered to be acceptable and not result in adverse pollution (contaminated land, air quality, pollution prevention and noise) impacts subject to conditions as recommended under the current permission. Information to address pollution matters is being considered for Crescent North and South Glassgreen but no similar information to address these matters within other character areas has been included in this current application. Measures to address pollution have been addressed separately for the Centre and Linkwood Primary School.

Supplementary planning guidance: Elgin South Masterplan

Although the focus of this latest application is upon the condition to be varied, the Phase 1 development is located within, and is subject to the provisions of, the Masterplan, as approved in May 2017. As a material consideration, the Masterplan is to be given significant weight in the determination of all applications within Elgin South.

As prepared, the Masterplan vision is to create a sustainable neighbourhood south of Elgin promoting core themes of healthy living, sustainability, contribution to climate change, and identity and character, the latter includes development of 3 villages each of their own character and within each village, different character areas are identified to compliment and reinforce each village form).

The Masterplan sets out the planning policy context and design development framework based upon different principles for each village and character area together with account

of access and circulation, landscaping and open space, and other considerations. Generally, and subject to conditions where recommended, the current permission was considered to comply with the Masterplan.

In the context of this latest application, the proposed Phase 1 development is again considered to accord with Masterplan principles not least in view of it's similarities in the location and nature of development and the limited extent of change occurring between the current permission and the current application. Following consultation on the proposed variation to the Phase 1 development, whether during the pre-application stage and/or now prior to determination, the extent or degree and effect of the resultant changes in Phase 1 upon the terms and provisions of the approved Masterplan are minimal not significant.

APPLICATION TO VARY CONDITION 1

adjust Phase 1A boundary

From Table 2 and **Appendix 2**, Phase 1A comprises development within Crescent North, South Glassgreen, Village Garden and Meadows North character areas. A total of 295 dwellings are permitted in accordance with Condition 23 of the current permission, to safeguard the impact of the Phase 1 Elgin South development upon the trunk road.

With the proposed variation, the 295-dwelling total for Phase 1A will be maintained by a rebalance in the distribution and delivery of that accommodation will change. In this case, the total number of dwellings within the western part of the approved area (at Crescent North and South Glassgreen) will increase by 34 units from 80 to 114 dwellings. This change occurs solely within South Glassgreen where all 50 affordable houses to be provided within this character area will now be delivered within earliest (sub)phase of the Phase 1 Elgin South development i.e. within Phase 1A rather than being delivered or split between Phase 1A (16 units) and Phase 1D (34 units) as approved under the current permission.

The increase in delivery of 34 units within the western part of Phase 1 will be 'compensated' by altering or rebalancing the phased delivery of dwellings elsewhere with the development. For example, Phase 1D at South Glassgreen will be reduced from 115 to 80 dwellings and within Meadows North some dwelling were to be delivered as part of Phase 1B and now an additional 16 dwellings will be re-assigned to Phase 1C. In addition, development within Village Garden is being reduced from 84 to 66 dwellings (to safeguard the proximity of accommodation relative to the alignment of a notifiable pipeline located to the south of that character area, see below) and those dwellings are re-assigned elsewhere, to locations within Village Core and Meadow East thus resulting in a (limited) increased number of dwellings within Phase 1B and 1C.

The proposed revised Phase 1A will allow further and early delivery of dwellings including an increased number of affordable dwellings in the western (Crescent North and South Glassgreen) part of the Phase 1 development area. This is acceptable noting that:

- the total number of dwellings across the Elgin South Phase 1 development area is maintained at 870 dwellings and not increased;
- the 295-dwelling requirement for Phase 1A (under Condition 23 of the current permission) is maintained albeit the phased distribution of housing elsewhere and across the Phase 1 Elgin South area is altered, for example the number of dwellings in Phase 1B and 1C are increased but reduced in Phase 1D;
- the current permission provides for 50 affordable dwellings on South Glassgreen. The proposed variation does not increase this number of (affordable) dwellings on South

Glassgreen but rather with the amended and phased delivery arrangements, all affordable dwellings scheduled for delivery in South Glassgreen will now be delivered as a single entity within the earliest proposed (sub)phase of the Phase 1 development;

- when compared with the earlier permission, the now proposed and revised mix of (affordable) accommodation is acceptable to the Housing & Property Manager. The area required for the 50 dwellings is larger than before but still contained within the earlier approved character area and located over the land area previously identified for affordable housing. The extended area and footprint of the revised house designs result in limited not significant changes in the plot boundary/site layout arrangements;
- from the current permission, all 870 dwellings, including the 64 (private) dwellings on Crescent North and 151 (50 affordable and 81 private) dwellings on South Glassgreen were accepted as a significant departure from the adopted development plan (MLDP 2015) including Policy H2 as development on which had not previously been agreed for release. Notwithstanding the revised phasing, to allow further development including increased affordable housing within the western part of the site within the earliest phase of the development, the proposed variation remains consistent and neither undermines nor over-rides the basis upon which the release of this western area was accepted within the current permission;
- as part of the significant departure from the MLDP 2015, it was accepted that early delivery of accommodation can occur within Crescent North and South Glassgreen. This is notwithstanding that this part of Elgin South was intended to be a final phase of the Elgin South development (Elgin LONG 2 South designation and Masterplan refer) in order to allow for the early establishment of robust structure planting before development should then take place. Here, advance (structure) planting details have been agreed (for the western part of Elgin South only) under Condition 21 of the current permission, with planting to be undertaken during the current planting season. The current permission also allows 80 of the now proposed 114 dwellings to be delivered within Phase 1A. This additional increase in the number dwellings can be accommodated without alteration of, or interference within, the agreed advance planting arrangements which will enclose the northern edge of Phase 1 and both character areas as identified;
- the delivery of the 50 units of affordable accommodation could, in regard to Policy H2, also be interpreted as meeting objectives within the current Local Outcomes Improvement Plan; and
- although not a material planning consideration, the Council has already acquired the land area required for the 50 affordable dwellings at South Glassgreen and, without prejudice, negotiations to conclude a contract to deliver the affordable accommodation are on-going.

revised mix of housing and site layout within Crescent North and South Glassgreen

From **Appendix 2** changes are proposed to the mix of house types within Crescent North and South Glassgreen. This has implications upon the site layout arrangements when compared with the current permission.

Within Crescent North, all dwellings are private dwellings, including accessible but no affordable housing will be provided. This arrangement was agreed as part of the current permission. Whilst the total numbers and balance of accommodation, whether single and/or 2-storey detached and semi-detached houses and flat/apartments are all unchanged from the current permission, changes in house design occur, for example the introduction of 'new' house types i.e. the Lauder (previously approved elsewhere in the current permission but not on Crescent North) and Braemar (not previously approved on Phase 1 but approved on other sites promoted by the applicant). The introduction of both

house types is acceptable and in keeping with the style, scale and material finishes of development already granted elsewhere across Elgin South.

With changes in house type (including new house types and/or by substitution of one approved house type for another approved house type), the footprint (size) for each dwelling and their siting within their respective plots is adjusted in a limited manner so that this does not result in any substantive or significant change in the overall character, appearance and layout for development within this character area. Overall, the revised details for Crescent North are acceptable.

For Plots 1 – 4, the siting of the apartment building and parking arrangement have been 'handed' to avoid the building being located within the required stand-off distance relative to a water main located along Birnie Road. (The approved layout at The Range to the north has similarly had to be adjusted). Within Crescent North, the central open space is retained. Information regarding the site access off Birnie Road is subject to consideration and small-scale amendments in the internal road layout will be required for transportation purposes. For the amount of development proposed, an emergency access has been introduced onto Birnie Road instead of the vehicular connection onto an existing track to the north as proposed within the current permission. For this latest submission, a SUDs basin was initially proposed along Birnie Road but now, with a revised drainage strategy based on infiltration, this area will now revert to a landscaped open space area as approved under the current permission, although swales will be added into this area which faces Birnie Road.

Within South Glassgreen, the site and area for the primary school, overall road layout details including access (vehicle, foot and cycle) to/from the A941 to the east and the existing development to the north together with the balance of affordable and private accommodation are all unchanged, however the area within the site required for affordable housing has increased. Changes in the mix of accommodation occur, including a revised mix of affordable house types already agreed with the Housing & Property Manager). These changes are acceptable and in keeping with the style, scale and material finishes of development already granted elsewhere across Elgin South.

Again, with changes in house type, the footprint (size) for each house and their siting within each plot may be adjusted in a limited manner so that this does not result in a substantive or significant change in the overall character, appearance and layout for development within this character area. Overall, the revised details for South Glassgreen are acceptable.

Located between the built-up area and advance structure planting areas to the north, and in accordance with the drainage strategy for this character area, a (foul) pumping station and SUDs basin will be located in open space/landscaped area between the built-up area and the advance (structure) planting areas. The detailed design of the drainage arrangements is currently subject to consultation, and revision to the internal road layout and off-site connections are required from both the current permission and current application.

This latest application includes details for a construction compound and car parking areas within the areas of advance (structure) planting to the north of Crescent North and South Glassgreen and adjacent to an existing track. The applicant has been advised that such construction arrangements would not be acceptable (under Conditions 21, and 52 and 53 of the current permission) and an alternative location is to be investigated.

revised layout and reduction in number of houses at Village Garden

From Appendix 2, 84 dwellings (25 affordable and 49 private) were approved within Village Garden under the current permission. As now proposed, the level of development in this character area will be reduced by 18 units to 66 dwellings (25 affordable and 41 private).

This change follows from further investigation and survey undertaken by the applicant and gas supplier wherein a section of a (notifiable) high-pressure gas pipeline is now located further north than previously indicated. The pipeline and its proximity to development requires to be safeguarded, necessitating a change (reduction) in the area available for development and the location of development in proximity to the pipeline, and the re-alignment of the road extending west from Linkwood Road along the southern frontage of Village Garden. (The alignment of the pipeline further west relative to the southern frontage to Linkwood Primary School is not affected).

To safeguard the pipeline, and after consultation, the revised changes included in the current application are acceptable to both the Health & Safety Executive and the gas supplier, SGN. Although the agreed location of the access onto Linkwood Road is retained, the alignment of the access road (which will serve Village Garden, the primary school and land beyond Phase 1) is moved further north from its earlier approved route, and the size of the available Village Garden character area is reduced. This results in the loss of 16 houses within the southern part of the area (although these will be re-distributed elsewhere within the Phase 1 development area).

Within Village Garden, the mix of dwellings is revised but at 25 units, the total number of affordable homes and their location in the western half of the character area remain unchanged from the current permission. The (revised) location and mix of affordable housing has already been agreed with the Housing & Property Manager. The designs for the revised mix and reduced number of private dwellings proposed for the site have all previously been approved as part of the current permission. Overall, the housing mix details are acceptable and in keeping with the style, scale and material finishes of development already granted elsewhere across Elgin South.

The change in site layout within Village Garden is more substantive relative to the current permission as a result of the implications arising from the “existing” alignment of the pipeline, including a reduced site area and the loss of land within and along its southern frontage. The previously proposed southern frontage of property along the access road has effectively been re-set further north, with the mix of property also revised but retaining the 3-storey corner apartment/neighbourhood use building at the site access off Linkwood Road. Compared with the current permission, the earlier approved, mainly apartment, buildings located immediately behind that southern frontage have been omitted. The internal road layout has also been revised although the road layout and disposition of properties in the northern half of the site remains similar to that approved earlier.

Although the changes in Village Garden are a more extensive, substantive change when compared to the current permission and changes proposed elsewhere within the current application, the overall degree of change which revises the mix, number and siting of dwellings in Village Garden remains limited and is not significant. Dwellings will still be located over some of the footprint/siting of previously approved dwellings (mainly in the northern part of the site). Although small-scale alteration of the proposed internal road

layout is required, the now-proposed design and site layout details for Village Garden are compliant with place-making principles and acceptable.

Land to the south beyond the revised road position and over the pipeline will continue to be used for open space/landscaping including meadows and gardens. Further information including planting specifications for this area have yet to be provided, as required by the current permission.

The original arrangements to integrate foul and surface water drainage infrastructure from Village Garden and Linkwood Primary School with the Centre and beyond is no longer being promoted, meaning separate drainage arrangements require to be progressed for each element, as indicated in an addendum to the Drainage Assessment which also indicates SUDs arrangements for Village Garden discharging to a SUDs basin in part of a park area within Village Core. As noted earlier, a detailed drainage design to satisfy Policy EP5 has yet to be provided and this will also require to satisfy Policy E5 and safeguard open space/landscape requirements for Village Core.

revised numbers and mix of accommodation within Village Core and Meadows East

From **Appendix 2**, changes in the location, number and mix of accommodation are proposed within Village Core and Meadows East to offset the loss of 18 units from within Village Garden. In this case, an additional 12 and 6 dwellings will be incorporated into Village Core and Meadows East respectively. These changes affect (increase) the number of dwellings within Phase 1B and 1C but with the rebalance in phasing across the Elgin South Phase 1 area, the overall total number of dwellings will not exceed 870.

In Village Core, the high-density development expected within the Masterplan is reflected in the already approved site layout arrangements. With the changes as described, the overall density will increase but in a limited manner when 12 additional dwellings integrated into the site layout.

Here, the resultant changes in mix and number of houses will all be accommodated within the earlier approved layout, again without encroachment or alteration of the internal road layout and open space/landscaping arrangements etc included in the current permission. The changes are accommodated with new properties, all to designs already approved elsewhere within Elgin South, largely being sited over the footprint of properties which they will replace. In some cases, approved terraced blocks of 3 or 4 dwellings may be expanded to 4 or 6 units over the same or similar footprint area following use of a different house type. These changes are dispersed throughout the development and with additional parking being located to the rear rather than in front of principal street frontages. These arrangements remain consistent with place-making principles adopted for the current permission. Overall, the changes are acceptable and have a limited not significant change in the character and appearance of the development.

No further information is provided within this latest application for Village Core to address specific conditions about the design and site layout arrangements as applied to the earlier permission including transport and drainage matters including the potential for loss of part of an approved park to accommodate a SUDs feature (for Village Garden).

In Meadows East, the mix of accommodation including the location and number of affordable dwellings (immediately to the south east of the 'main street' within Village Core) is largely unchanged from the current permission, however the resultant increase of 6 dwellings is achieved by replacing two areas, each with two detached dwellings and a pair

of semi-detached dwellings by three, 2-storey apartment blocks, each with four flats. These (Auldearn) apartments, a design already approved under the current permission and found elsewhere across the Elgin South development, are located over the footprint of the properties which they will replace so the resultant change in site layout/plot boundary arrangements are limited not significant. As such, there is very little change in the overall character and appearance of this character area and the changes as described are acceptable.

The applicant's submissions indicate an additional 5 parking spaces will be provided within Meadow East but given the amount and location of this parking, this would not detract from Policy PP3 place-making considerations. No further information is provided within this latest application for Meadows East to address specific conditions about the design and site layout arrangements as applied to the earlier permission including transport and drainage matters.

For Meadow North, the overall mix, number and design of dwellings and site layout arrangements all remain unchanged and are not affected by this current application hence no (revised) details for this character area are included. As noted, a change in the phased delivery of accommodation in this character area occur and whilst 12 units will still be provided within Phase 1B, as per the current permission, the only visible change of this amended phasing is that the delivery of 16 units (located towards the north eastern corner of this character area) will not be built during Phase 1A but built later during Phase 1C. In part, this will offset the rebalance of accommodation now being proposed elsewhere in Phase 1A. The bulk of accommodation will still be delivered within Phase 1A including the affordable homes component of the development 16 dwellings) will now be re-assigned from Phase 1A to Phase 1C.

impact on developer obligations

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

The current permission is subject to a legal agreement regarding developer obligation requirements towards primary and secondary education and healthcare facilities, all to be provided in accordance with an agreed schedule of payments related to house completions; alternative arrangements including timescales to provide sports pitches at the Centre; and for both the proposed Linkwood and Glassgreen Primary School sites, there are requirements to transfer of ownership of each required site to Moray Council and provide, for Linkwood Primary School, a 'serviced' site (as defined within the agreement). The latter arrangements are also required within specified time periods related to the commencement of development as approved under application 16/01244/APP.

Following consultation, no further developer obligations (financial contributions) are identified as the 870 dwelling total is not altered as part of this proposed variation. As such the proposal does not conflict with Policy IMP3.

However, given that the existing obligation requirements are specific to the current permission it is necessary that the formal agreement be modified so that the terms of the obligations apply to the development whether pursuant to the current permission (16/01244/APP) or this latest application (18/01209/APP).

Without prejudice to the outcome of this application and after discussion with the

applicant, an application to formally modify the existing agreement has been submitted and is currently receiving the Council's attention (under delegated powers) (application 18/01603/S75 refers). The terms of the modification seek to apply the Phase 1 developer obligation requirements to development occurring under the current permission and/or this current application, and it also includes a plan to redefine Phase 1D at South Glassgreen. A number of minor revision within the style of the (modified) agreement, none of which impact upon the purpose and function of the agreement.

Without prejudice, but in the event of being minded to grant permission for this current application, it is recommended that the modified agreement be agreed and formally acknowledged for formal recording within the Register of Sasines prior to issue of any formal decision notice for application 18/01209/APP.

Conclusion and recommendation

Planning permission has already been granted for a Phase 1 development at Elgin South to include 870 dwellings, neighbourhood uses, sites for two primary schools and a Moray Sports Centre subject to planning conditions and a legal agreement regarding planning obligations

By seeking to vary a condition of that development, this application seeks to maintain the overall parameters and provisions of the current permission whilst promoting a revised form of development including amended phasing design and site layout arrangements. Whilst maintaining the provision for 870 dwellings overall, and for 295 dwellings within Phase 1A, the proposed adjustment in the locations of development within Phase 1A will facilitate early but increased delivery of housing in the western part of the site within the Crescent North and South Glassgreen character areas, including delivery of 50 affordable dwellings. The location and number of dwellings within successive phases of the development will be rebalanced, in part also addressing requirements to safeguard development in proximity to a high-pressure gas pipeline. The latter will result in a loss of housing from Village Garden but this will be re-located into Village Core and Meadows East character areas. The latest application also includes revisions to the mix of housing including amended design and site layout arrangements. The proposed variation does not impact upon the arrangements to deliver the Moray Sports Centre and the two sites for primary schools.

The proposed variation of Condition 1 of application 16/01244/APP is considered acceptable and remains acceptable, in accordance with the terms and conditions of the current permission and as a significant departure from the development plan. It will result in limited but not significant changes in the overall character and appearance of the Phase 1 development approved within Elgin South when compared with application 16/01244/APP.

Subject to conditions as recommended and modification of the existing agreement regarding developer obligations, the development as now proposed is acceptable, accords with planning policy and respects the Elgin South Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

Approval of the application to vary Condition 1 of application 16/01244/APP is recommended.

REASON(S) FOR DECISION

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

Planning permission has already been granted for a Phase 1 development at Elgin South to include 870 dwellings, neighbourhood uses, sites for two primary schools and a Moray Sports Centre subject to planning conditions and a legal agreement regarding planning obligations

By seeking to vary a condition of that development, this application seeks to maintain the overall parameters and provisions of the current permission whilst promoting a revised form of development including amended phasing design and site layout arrangements. Whilst maintaining the provision for 870 dwellings overall, and for 295 dwellings within Phase 1A, the proposed adjustment in the locations of development within Phase 1A will facilitate early but increased delivery of housing in the western part of the site within the Crescent North and South Glassgreen character areas, including delivery of 50 affordable dwellings. The location and number of dwellings within successive phases of the development will be rebalanced, in part also addressing requirements to safeguard development in proximity to a high-pressure gas pipeline. The latter will result in a loss of housing from Village Garden but this will be re-located into Village Core and Meadows East character areas. The latest application also includes revisions to the mix of housing including amended design and site layout arrangements. The proposed variation does not impact upon the arrangements to deliver the Moray Sports Centre and the two sites for primary schools.

The proposed variation of Condition 1 of application 16/01244/APP is considered acceptable and remains acceptable, in accordance with the terms and conditions of the current permission and as a significant departure from the development plan. It will result in limited but not significant changes in the overall character and appearance of the Phase 1 development approved within Elgin South when compared with application 16/01244/APP.

Subject to conditions as recommended and modification of the existing agreement regarding developer obligations, the development as now proposed is acceptable, accords with planning policy and respects the Elgin South Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

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APPENDIX 1

POLICY

Adopted Moray Local Development Plan 2015

LONG 2: South

- The developer/landowner must prepare a landscape and planting strategy. This must be agreed with the Council beforehand and include details of species, densities, distribution and sizes of new planting. The planting must be established before development commences. It should take into account the mitigation measures detailed in the Carol Anderson Landscape Associates' Report October 2013. The strategy should also address habitat creation, and how the development has been informed by a species survey.
- The more open area to the west of the A941 should be shown as a final phase within the masterplan to allow for the establishment of robust structure planting.
- Proposals should be supported by a flood risk assessment (FRA) the outcome which may affect the developable area of the site. Water resilient measures should be considered as part of this;
- A buffer strip of at least 6 metres between the watercourse and development is required; and
- A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected

- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

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

Primary Policy PP3: Placemaking

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

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour
- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles
- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

Policy 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 H2: Long Term Housing Designations (LONG)

Long term designations are identified to set out the direction of growth and to assist in the forward planning of infrastructure and landscape enhancement/mitigation. These sites are not relied upon to meet the current housing land requirement up to 2025. The detail of these designations will be reviewed through the next local development plan. Earlier release of these areas, or sites within them, will only be considered where:

A shortfall in the 5 year effective land supply is identified in the annual Housing Land Audit which cannot be met by:

- 1) Windfall provision assuming previous trends.
- 2) Constrained sites which are likely to become available for development to meet the shortfall in the relevant timeframe.

In these circumstances an appropriate release of LONG term land may be recommended where:

This can be achieved without compromising delivery of a master-planned approach and where appropriate access, infrastructure and landscape setting can be secured.

The site is demonstrated to be effective within the next five years.

Note: *Supplementary or other guidance will be prepared to address the detailed implementation and approach to LONG sites and the conditions which will apply to early/partial release and/or progression through the next local development plan.*

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 E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will

only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

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

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

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

National designations

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

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

Policy E2: Local Nature Conservation Sites and Biodiversity

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

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

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

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

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

Policy E3: Protected Species

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

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

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

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

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

Policy E4: Trees and Development

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

Policy E5: Open Spaces

Safeguarding Open Spaces

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

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

Provision of new Open Spaces

Quantity

New green spaces should be provided to the following standards;

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

Quality

New green spaces should be;

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

Allotments

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

Policy E9: Settlement Boundaries

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

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

Policy E10: Countryside Around Towns

Development proposals within the Countryside Around Towns (CAT's) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless they:

- a) involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- b) are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas (excluding houses in all these cases), or
- c) are a designated "LONG" term housing allocation, released for development under the terms of Policy H2.

Policy BE1: Scheduled Monuments and National Designations

National Designations

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

Local Designations

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

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

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

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

Policy BE2: Listed Buildings

The Council will encourage the protection, maintenance, enhancement and active use of listed buildings.

Development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of the listed building. Alterations and extensions to listed buildings or new developments within their curtilage must be of the highest quality, and respect the original structure in terms of setting, scale, materials and design.

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building(s). The resulting development should be of a high design quality protecting the listed building(s) and their setting and be the minimum necessary to enable its conservation and re-use.

No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Where demolition of a listed building is proposed it must be shown that;

- a) The building is not of special interest; or
- b) The building is incapable of repair; or

- c) The demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- d) The repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable price.

New development should be of a comparable quality and design to retain and enhance special interest, character and setting of the listed building(s).

Buildings which are allowed to fall into a state of disrepair may be placed on the Buildings at Risk Register and remedial works to buildings in disrepair may be enforced in the public interest.

Proposals should be in accordance with guidance set out in the Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment guidance note series.

Policy EP2: Recycling Facilities

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

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

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

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

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

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

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

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

Policy EP6: Waterbodies

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

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

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

Policy EP7: Control of Development in Flood Risk Areas

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

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

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
 - Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are

maintained, are under construction, or are a planned measure in a current flood management plan;

- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
- Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

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

Policy EP8: Pollution

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

Policy EP9: Contaminated Land

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

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

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

Policy EP10: Foul Drainage

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

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

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

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

Policy EP11: Hazardous Sites

The Council will have regard to the presence of major hazard sites, and apply the PADHI (Planning Advice for Development near Hazardous Installations) methodology for planning applications within the consultation distances around these sites. Formal consultations with the Health and Safety Executive and also the Scottish Environment Protection Agency (SEPA) will take place as appropriate.

Policy EP12: Air Quality

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory

to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

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

Policy ER2: Development in Woodlands

All woodlands

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Protected Woodlands

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

Tree surveys and new planting

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

Policy ER5: Agriculture

The Council will support the agricultural sector by:

- a) Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.
- b) Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

Proposals for agricultural buildings with a locational requirement will be subject to visual, landscape and amenity considerations and considered against the relevant environmental policies.

Policy ER6: Soil Resources

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Developers should assess the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on undisturbed areas of deep peat (defined as 1.0m or more) will only be permitted for these uses where:

- a) the economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) it has been clearly demonstrated that there is no viable alternative.

Where development on undisturbed peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, degradation or erosion of peat is avoided.

Large scale commercial peat extraction will not be permitted.

Policy 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 T6: Traffic Management

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

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

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

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

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

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

Policy R2: Out of Centre Development of Retail, Commercial and Leisure Proposals

Outwith town centres retail development proposals (including extensions) and other uses generating significant footfall such as leisure or public buildings, must:

- a) comply with the sequential approach which requires that locations for new development be considered in the following order of preference:
 - Principal and Other Town Centre Sites;
 - Edge of Town Centre Sites;
 - Other Commercial Centres identified within the Table 1 "Retail Centres and Roles";
 - Derelict or vacant land in out of centre locations that are or can be made easily accessible by pedestrians and a choice of modes of transport;
 - Out of centre sites in locations which are, or can be made, easily accessible by pedestrians and a choice of modes of transport;
- b) demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, this being demonstrated where appropriate, by a Retail Impact Assessment,
- c) meet any requirements for linking development to existing infrastructure including roads access, parking, as demonstrated by a Transport Assessment, sewerage, water run-off and Sustainable Urban Drainage Systems (SUDS),
- d) provide specific opportunities for access by public transport, pedestrians, cyclists and the disabled, and
- e) contribute positively to the built environment of the area by having a high standard of design.

Proposals outwith settlement boundaries will not be acceptable, with the exception of specialist retailing associated with tourism which should be considered against Policy R3 and roadside facilities which should be considered against Policy T3. Small shops intended to meet the convenience needs of a local neighbourhood should be considered against Policy R3.

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

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

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

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

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

Policy IMP1: Developer Requirements

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

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

- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

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.

APPENDIX 2

TABLE 1: RESIDENTIAL AND NON-RESIDENTIAL USES WITHIN PHASE 1 DEVELOPMENT

	Area of Development															
	Crescent North		South Glassgreen		Village Garden		Village Core		Meadows North		Meadows East		Central Park		TOTAL	
RESIDENTIAL																
	2016 ¹	2018 ²	2016 ¹	2018 ²	2016 ¹	2018 ²	2016 ¹	2018 ²	2016 ¹	2018 ²	2016 ¹	2018 ²	2016	2018	2016 ¹	2018 ²
Affordable	0	0	50	50	25	25	50	51	35	35	57	57			217	218
Private*	64	64	81	81	59	41	174	185	108	108	167	173			653	652
Accessible	13	13	26	27	6	6	19	19	11	11	17	17			92	93
TOTAL RESIDENTIAL	64	64	131	131	84	66	224	236	143	143	224	240			870	870
NON-RESIDENTIAL																
Class 1**			2	2	1	1	11	11							14	14
Class 2**							9	9							9	9
Class 3**			1				4	4							5	5
Class 4**							4 (B)	4 (B)							4	4
Class 10**			1	1			1 (A)	1 (A)							2	2
TOTAL NON-RESIDENTIAL			4	4	1	1	29	29							34	34
Primary School ***			X	X									X	X		
Moray Sports Centre													X	X		

Notes:

2016¹ = application 16/01244/APP

2018² = application 18/01209/APP

* = includes accessible housing

** = see Town & Country Planning (Use Classes) (Scotland) Order 1997, as amended for interpretation of use

*** = assumes Class 8* use

A, B = Type A and Type B building, see applications 16/01244/APP and 18/01209/APP for details

TABLE 2: Housing Allocation by House Type and Area of Phased Development

PHASE		Type of Accommodation						Total Number of Dwellings	
		Affordable		Private*		Accessible			
		2016	2018	2016	2018	2016	2018	2016	2018
PHASE 1A									
Crescent North	<i>Single-storey</i>	0	0	5	5	5	5		
	<i>Houses detached</i>	0	0	39	39	0	0		
	<i>Houses semi-detached</i>	0	0	4	4	0	0		
	<i>Houses terraced</i>	0	0	0	0	0	0		
	<i>Flats/apartments</i>	0	0	16	16	8	8		
		0	0	64	64	13	13	64	64
South Glassgreen (part)	<i>Single-storey</i>	2	16	0	0	0			
	<i>Houses detached</i>	0	2	0	0	0	0		
	<i>Houses semi-detached</i>	2	16	0	0	0	0		
	<i>Houses terraced</i>	0	0	0	0	0	0		
	<i>Flats/apartments</i>	12	16	0	0	0	0		
		16	50					16	50
Village Garden	<i>Single-storey</i>	8	8	0	0	0	0		
	<i>Houses detached</i>	1	1	8	9	0	0		
	<i>Houses semi-detached</i>	16	12	10	2	0	0		
	<i>Houses terraced</i>	0	0	8	13	0	0		
	<i>Flats/apartments</i>	0	4	33	17	6	6		
		25	25	59	41	6	6	84	66
Meadows North (part)	<i>Single-storey</i>	13	13	9	7	7	7		
	<i>Houses detached</i>	0	0	56	50	0	0		
	<i>Houses semi-detached</i>	2	2	24	20	0	0		
	<i>Houses terraced</i>	0	0	3	3	0	0		
	<i>Flats/apartments</i>	16	16	8	4	2	2		
		31	31	100	84	9	9	131	115
TOTAL (Phase 1A)		72	106	223	189	28	25	295	295

PHASE 1B									
Meadows North (part)	<i>Single-storey</i>	0	0	0		0	0		
	<i>Houses detached</i>	0	0	0	0	0	0		
	<i>Houses semi-detached</i>	0	0	0	0	0	0		
	<i>Houses terraced</i>	0	0	0	0	0	0		
	<i>Flats/apartments</i>	4	4	8	8	2	1		
		4	4	8	8	2	1	12	12
Village Core	<i>Single-storey</i>	1	1	0	0	0	0		
	<i>Houses detached</i>	0	0	25	24	1	1		
	<i>Houses semi-detached</i>	14	14	16	58	0	0		
	<i>Houses terraced</i>	16	13	36	6	0	0		
	<i>Flats/apartments</i>	19	23	97	97	18	18		
		50	51	174	185	19	19	224	236
Meadows East (part)	<i>Single-storey</i>	0	0	0	0	0	0		
	<i>Houses detached</i>	0	0	0	0	0	0		
	<i>Houses semi-detached</i>	0	0	0	0	0	0		
	<i>Houses terraced</i>	0	0	0	0	0	0		
	<i>Flats/apartments</i>	0	0	12	12	2	2		
		0	0	12	12	2	2	12	12
TOTAL (Phase 1B)		54	55	194	205	23	22	248	260
PHASE 1C									
Meadows East (part)	<i>Single-storey</i>	25	25	10	10	7	7		
	<i>Houses detached</i>	0	0	77	73	0	0		
	<i>Houses semi-detached</i>	14	14	34	32	0	0		
	<i>Houses terraced</i>	0	0	6	6	0	0		
	<i>Flats/apartments</i>	18	18	28	40	8	8		
		57	57	155	161	15	15	212	218
Meadows North (part)	<i>Single-storey</i>		0		2		2		
	<i>Houses detached</i>		0		6		0		
	<i>Houses semi-detached</i>		0		4		0		
	<i>Houses terraced</i>		0		0				
	<i>Flats/apartments</i>		0		4		1		
			0		16		3	0	16
TOTAL (Phase 1C)		57	57	155	177	15	18	212	234

Phase 1D									
South Glassgreen (part)	<i>Single-storey</i>	13	0	9	9	9	8		
	<i>Houses detached</i>	0	0	5	5	0	0		
	<i>Houses semi-detached</i>	10	0	14	10	0	0		
	<i>Houses terraced</i>	3	0	13	13	0	0		
	<i>Flats/apartments</i>	8	0	40	44	17	19		
		34	0	81	81	26	27	115	81
TOTAL (Phase 1D)		34	0	81	81	26	27	115	81
TOTAL ALL PHASE 1									
All Areas	<i>Single-storey</i>	62	63	33	33	28	27	95	96
	<i>Houses detached</i>	0	3	210	206	1	1	211	209
	<i>Houses semi-detached</i>	59	58	102	130	0	0	161	188
	<i>Houses terraced</i>	19	13	66	41	0	0	85	54
	<i>Flats/apartments</i>	77	81	242	242	63	65	319	323
TOTAL (Phase 1)		217	218	653	652	92	93	870	870

Note:

*includes accessible housing

APPENDIX 3

Proposed alterations to conditions of 16/01244/APP for 18/01209/APP

Condition of application 16/01244/APP	Topic	Incorporate within application 18/01209/APP (in full or amended)?	Comment
1	Overall parameters for development	Y	update drawing reference and confirm housing and Centre design details from current permission
2	Development beyond Phase 1A	Y	Update drawing reference
3	Use Classes for schools and Centre	Y	Update drawing reference, refer back to terms of current permission
4	Use Classes for neighbourhood uses	Y	re-state
5	Details for Centre	Y	Details for (revised (reduced)) Centre building only already discharged. Re-state but apply only to future development (re-enlarged Centre building and/or external facilities Delete charging points – details already discharged
6	Lighting for Centre	Y	Details for (revised (reduced)) Centre building only already discharged. Re-state but apply only to future development (re-enlarged Centre building and/or external facilities
7	Foul drainage for Centre	Y	Details for (revised (reduced)) Centre building only already discharged. Re-state but

			apply only to future development (re-enlarged Centre building and/or external facilities
8	Surface water (including construction surface water) drainage for Centre	Y	Details for (revised (reduced)) Centre building only already discharged. Re-state but apply only to future development (re-enlarged Centre building and/or external facilities
9	Landscaping for Centre	Y	Details for (revised (reduced)) Centre building only already discharged. Re-state but apply only to future development (re-enlarged Centre building and/or external facilities
10	Landscape Obligations for Centre	Y	On-going obligation applies to already approved and additional scheme details
11	Affordable Housing – all areas	Y	Details confirm 218 dwellings. Amend to require details for delivery and timescale arrangements as before - no details here but negotiations over contract for SG
12	Affordable Housing	Y	Amend to confirm details for SG and VG as acceptable (by Housing) but re-apply requirement for revised mix for VC, ME and MN – yet to be agreed
13	Accessible Housing	Y	Re-state but up-date details to refer to 93 accessible dwellings
14	Details for residential development in all character areas	Y	Details included about material finishes to buildings and surfaces, bin stores (design and

			location) boundary treatment and air pump specifications but play equipment is illustrative – amend condition to refer to details not yet provided including a composite schedule of finishes for VC, ME and MN
15	Foul drainage for all residential development areas	Y	Details for CN and SG subject to consultation although technical approval from Scottish Water for SG (and CN awaited?) Re-state existing until outcome of consultation – potential discharge for CN and SG ahead of other areas
16	Surface water (including construction surface water) drainage for all residential development areas	Y	Addendum strategy for drainage introduced during discharge of Centre details including revised details for VG (and other elements) Details for CN and SG subject to consultation Re-state existing until outcome of consultation – potential discharge for CN and SG ahead of other areas
17	Water course and flood levels – all development	Y	Details for Centre (and equivalent for Linkwood PS) discharged so re-apply to residential areas only. Details of FFL included for CN and SG but subject to consultation - potential discharge for CN and SG ahead of other areas
18	Construction Environmental Management Plan – all development	Y	Details for Centre (and equivalent for Linkwood PS) discharged so re-apply to residential areas

			only. CEMP details for CN and SG but subject to consultation - potential discharge for CN and SG ahead of other areas
19	Per-construction surveys – all development	Y	Details for Centre (and equivalent for Linkwood PS) discharged, and for CN and SG (yet to be confirmed) – re-apply to remaining residential areas only
20	Landscaping details – all (residential) development areas (not Centre)	Y	For all character areas (including CN and SG) details included to address most requirements of original condition including retain/remove, protect and maintain etc - amend to apply to aspects not included including the meadow and planting south of VG and the School, etc
21	Advance (structure) planting	Y	Details discharged for western part so amend condition to confirm those details and re-state existing condition requirements to apply to areas adjoining MN and ME
22	Landscape Obligations for all development (not Centre)	Y	On-going obligation applies to details to be accepted and any additional scheme details
23	Phase 1A limit to development – 295 dwellings, etc	Y	Re-state but up-date drawing to reflect amended Phase 1A/1D boundary in SG
24	Archaeology – all development	Y	Details discharged for Centre and western area (and equivalent for Linkwood PS). Amend condition to confirm

			agreed details (for CN and SG) and re-apply to VG, VC, ME, MN
25	Public Access Plan	Y	Discharged for Centre building only. Plan details subject to consultation included details for CN and SG - - potential discharge for CN and SG ahead of other areas
26	District Heating	No	Condition discharged – not viable for Phase 1. Omit condition
27	Environmental Improvement of Linkwood Burn	Y	Dis-applied to Centre. Amend to apply to ME and MN only
28	Construction Hours – all development	Y	On-going obligation for all elements of development regardless of location
29	Construction NIA	Y	Discharged for Centre building only. Re-apply to all residential areas – no details included in submission
30	Noise from Class 3 and 10 uses	Y	Uses integrated into built design and no details in current application
31	Air source pumps – all residential areas	Y	Details of pumps included – reword condition for development to accord with the submitted details
32	Noise implications of gas station – VC only	Y	Re-apply – no details included
33	Noise level mitigation along Linkwood Road	Y	Re-apply but clarify that applies to VG, VC and MN which border Linkwood Road – no details included
34	Noise from Class 1, 2, or 4 uses	Y	Uses integrated into built design and no details in current application
35	Public transport- all development	Y	Discharge for Centre building only – details for CN and SG subject to consultation but no

			details for other areas - potential discharge for CN and SG ahead of other areas
36	Pedestrian and cycle crossing over Linkwood Burn – for Centre, school and dwellings accessed from Linkwood Road	Y	Details discharged as part of application 16/01244/APP – re-word condition to re-iterate delivery in accordance with agreed details and timescales
37	Alternative access arrangements – development off Linkwood Road	Y	Details discharged as part of application 16/01244/APP – re-word condition to re-iterate arrangements to be provided in accordance with agreed details
38	Alternative access for development using Linkwood Road	Y	but re-state obligation about alternative access route
39	Replacement vehicle crossing over Burn and pedestrian/cycle to Reiket Lane	Y	Does not apply to Centre but re-state to re-iterate timescale for delivery
40	Travel Pack – all development	Y	Re-state –details yet to be provided Including those for Centre. No details included
41	Travel Information Pack – all development	Y	Re-state –details yet to be provided Including those for Centre. No details included
42	Development accessed to A941	Y	In light of details included in application, amend to apply to development outwith Phase 1A (i.e. enables SG (50 affordable) but not Phase 1G
43	Road connection from SG to north – before 51 st dwelling commencing	Y	Re-state timescale for connection
44	Development accessed from Birnie Road – details	Y	Details subject to consultation
45	Road connection from CN	Y	Re-state timescale for

	to north – before 51 st dwelling commencing		connection but revise to reflect details are no longer vehicle but pedestrian/cycle only and add requirement for emergency access to/from Birnie Road. Details subject to consultation
46	Internal road details – CN	Y	Amend to require details for connection to north and cycle path adjacent to Birnie Road and ADD timescale for delivery. Details subject to consultation
47	Internal road details – MN	Y	Re-state but update drawings – no details included to address
48	Internal road details – VC	Y	Re-state but update drawings – no details included to address
49	Internal road details – ME	Y	Re-state but update drawings – no details included to address
50	Internal road details – VG	Y	Amended requirements based on amended layout for reduced development in VG
51	Internal road details – SG	Y	Re-state but update drawings – no details included to address Details subject to consultation
52	Construction Traffic Management Plan – all development	Y	Discharge for Centre building only. Re-apply for all other area but details for SG only subject to consultation, although location of compound etc not acceptable given encroachment in advance structure planting areas. Details also related to construction access

			condition (53)
53	Construction access(es) – all development	Y	Discharge for Centre building only. Re-apply for all other area but details for SG only subject to consultation. Details also part of construction traffic management plan condition (52)
54	Height of boundary fences – all development	Y	On-going obligation
55	Height of features in visibility areas – all development	Y	On-going obligation
56	Parking specifications – all development	Y	On-going obligation
57	Driveway lengths – all residential development	Y	On-going obligation
58	Driveway surface – all residential development	Y	On-going obligation
59	Road improvements – all development accessed from Linkwood Road, including road, pedestrian and cycle paths from Linkwood bridge to southernmost access, and accessed to/from development on Linkwood Road	Y	Details discharged as part of application 16/01244/APP – re-word condition to re-iterate delivery in accordance with agreed details and timescales

WARD 01_17

18/01163/APP**11th September 2018**

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 Netherglen Quarry Longmorn Elgin Moray for Breedon Northern

Comments:

- A SITE VISIT has been carried out.
- Application is a “major” development as defined under the Hierarchy Regulations 2009 because the site area exceeds 2 ha.
- Advertised under Schedule 3 of the Development Management Regulations 2013.
- Advertised for neighbour notification purposes.
- One objection received.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject To The Following:-

Conditions/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.

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:

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

The recommendations contained within the 'Assessment of Environmental Impact of Blasting, Future Working at Netherglen Quarry, Moray' dated the 18th May 2018 should be adhered to.

THE TRANSPORTATION MANAGER has commented that:-

Advanced warning signs to be provided on the A941 shall be to Traffic Signs Regulations and General Directions (TSRGD) diagram number 506.1 (and the relevant handed variant thereof), 900mm and in class ref 2 material.

Before commencing works, the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act.

The applicant will be required to provide technical information, and a programme for the proposed works. Advice on the application process can be obtained by emailing constructionconsent@moray.gov.uk

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

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

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

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

The Transportation Manager must always be contacted before any works commence.

This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See attached consultation responses dated 9th October and 4th December 2018.

SCOTTISH NATURAL HERITAGE has commented that:-

See attached consultation responses dated 25th September 2018.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
2	Current site levels
1	Water Management plan
N01-PA-008	Cross section Phase 1
N01-PA-009	Cross section Phase 2

N01/PA/007	Restoration plan
N01/WMP/201	Waste management plan
N01/PA/005	Phase 3 extraction
N01/PA/001	Location plan
N01/PA/002	Site plan
N01/PA/006	Cross section Phase 3
N01/PA/003	Phase 1 extraction
N01/PA/004	Phase 2 extraction
N01/PA/010	Tree Compensation Plan

Other supporting information to be stamped and issued with decision (and kept sensitive):

Preliminary Ecological Appraisal by ENVIRO CENTRE dated March 2018.

Assessment of Environmental Impact of Blasting, Future Working at Netherglen Quarry, Moray dated the 18th May 2018.



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01163/APP

Site Address:

Netherglen Quarry

Longmorn

Applicant Name:

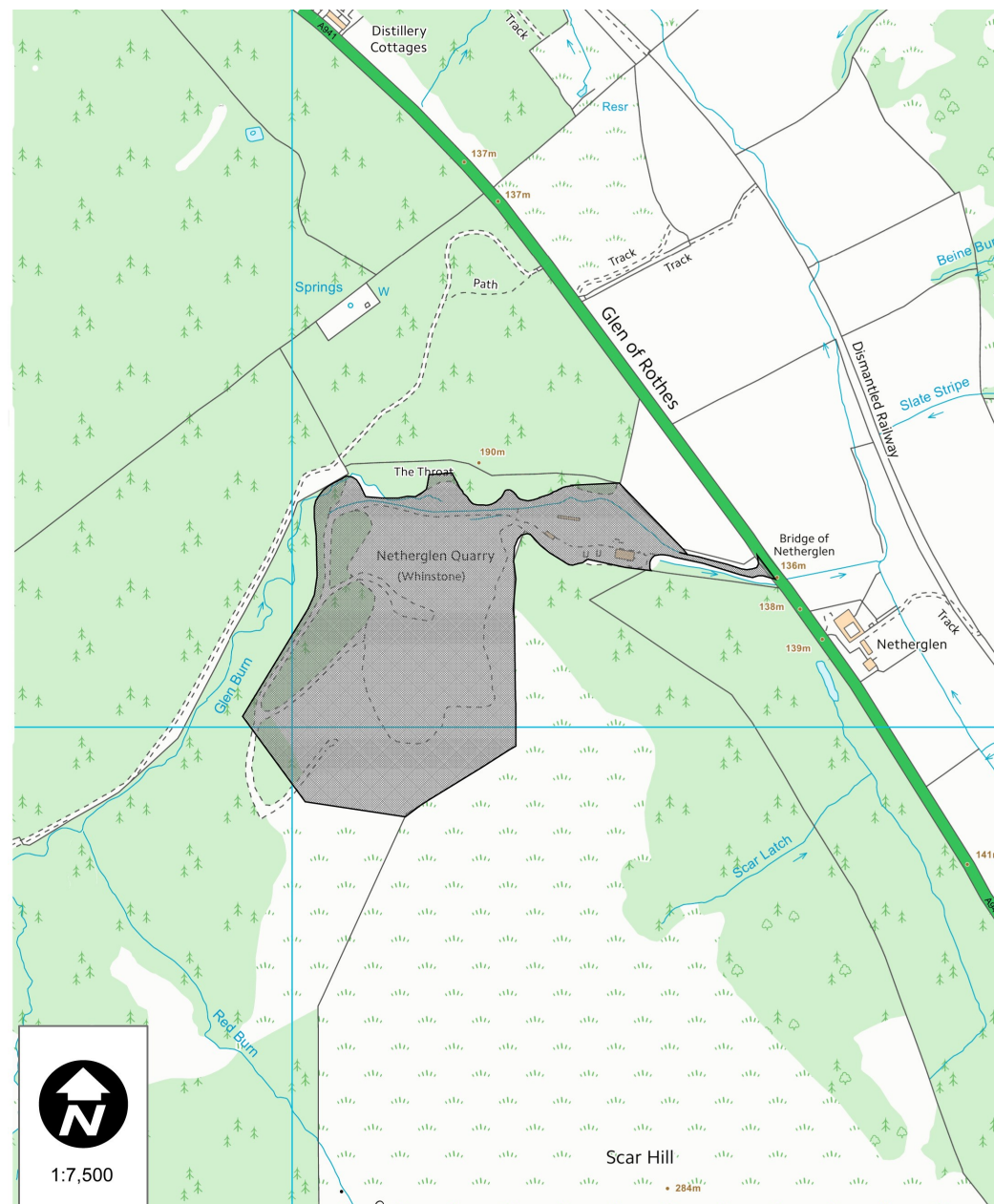
Breedon Northern

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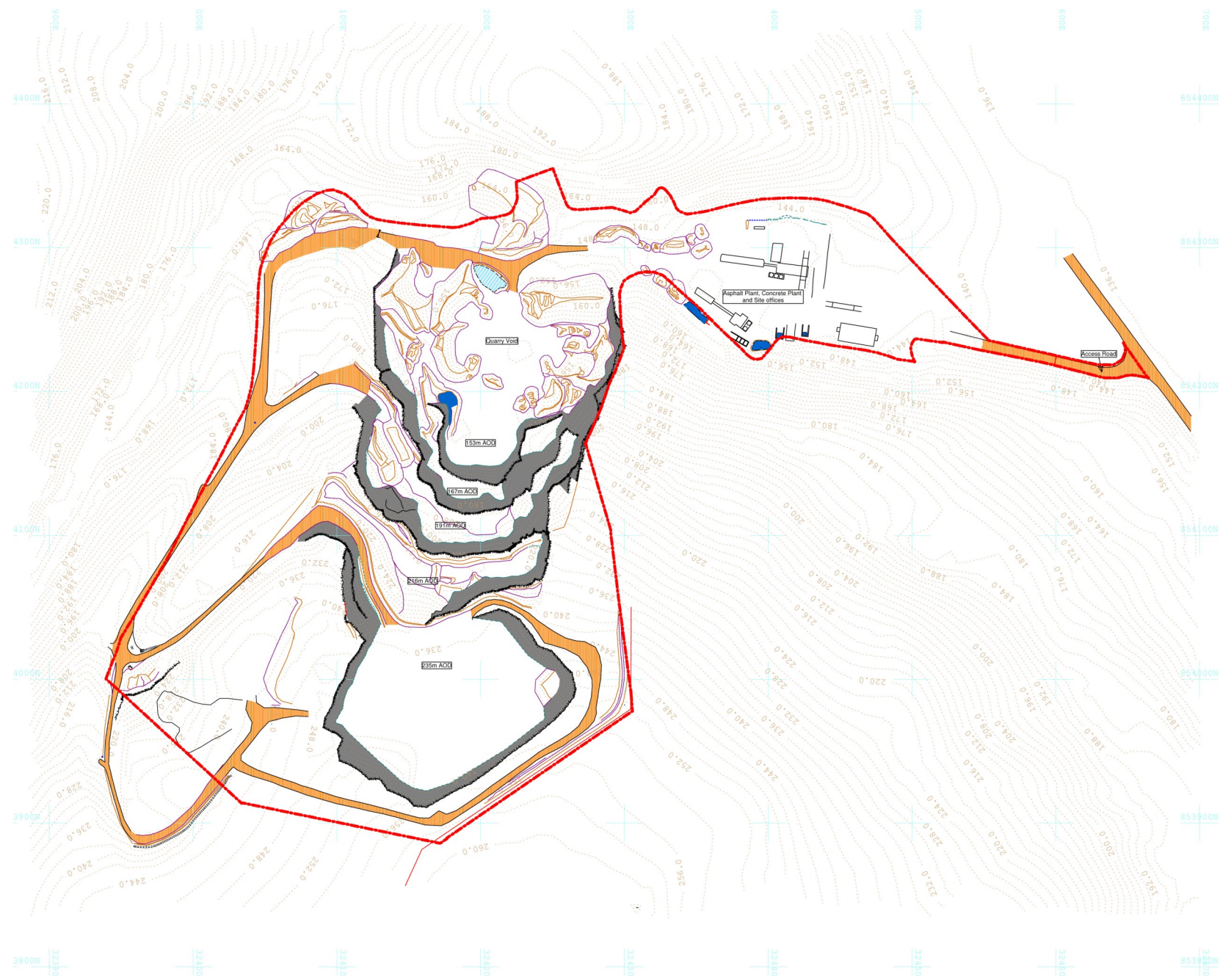
Location Plan



Site Location



Site plan











PLANNING APPLICATION: 18/01163/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

- 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. (The application has been submitted under the terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act), which allows for the variation or removal of planning conditions placed on a previous planning consent).
- Mineral extraction would continue at an average annual output rate of up to 150,000 tonnes (similar to current levels), giving an overall estimated total yield of 3.6million tonnes. This also includes the continued processing of rock on site into aggregate construction products, of coated roadstone (asphalt) and ready-mix concrete.
- The development will be undertaken in 3 phases:
- Phase 1 will involve progressing the upper benches to their later extents at an elevation of 222m and 237m (Above Ordnance Datum) AOD and is anticipated to yield approx. 1.1 million tonnes of mineral. Prior to this an area of vegetation including 1.1ha of woodland will be removed, with overlying soils placed against finalised quarry faces for restoration.
- Phase 2 will involve working the existing bench at 191m AOD split with a further bench established at 207m AOD, taken to their later extents and yielding approx. 1.5 million tonnes of mineral.
- Phase 3 will involve extraction on three levels at benches of 166m, 177m and 153m AOD taken to their final positions and yielding approx. 1 million tonnes.
- Rock products will continue to be stockpiled in the existing quarry stocking area within the quarry void prior to collection for dispatch to market, or utilised for the manufacture of asphalt or ready-mix concrete. Loaded HGVs carry an average of 20 tonnes of rock/asphalt or 6 cubic metres of concrete, and exit the quarry via the existing site access onto the A941. For hours of operation, extraction and processing of rock will be undertaken between 0600hrs and 1900hrs Monday to Friday, and 0700hrs and 1300hrs on Saturdays.
- The proposal includes a Concept Restoration Plan which details a scheme of progressive restoration and restoration works for completion once extraction has ceased, and 1.4ha of compensatory tree planting along the southern edge of the site and upper bench of phase 1 (to be carried out in 2020 and following completion of phase 1).
- The application is supported by a Planning Supporting Statement, Noise and Vibration Assessments, Landscape and Visual Assessment, Flood Risk Assessment, Surface Water Waste Management Plan, Preliminary Ecological Appraisal and Extractive Waste Management Plan.

THE SITE AND SURROUNDINGS

- An established hard rock quarry located approximately 9.3km south of Elgin and approximately 6km north of Rothes, with access taken directly from the A941.
- The application site, inclusive of the existing quarry operations extends to approximately 13.5ha, the actual permitted area of extraction being 7.5ha. The site comprises the following elements:
- The current quarry area (11.5 ha), which comprises the quarry void containing primary and secondary processing plant, stocking areas, haul roads, the concrete and asphalt plants located in the north-east area of the site together with associated workshops, offices and weigh-bridge. This also includes an area of retained woodland within the western part of the site which separates the haul road from the quarry.
- The remaining unworked portion of the site (2ha), which comprises dry heath/moorland and 1.1ha of native pine (naturally regenerated) woodland - mixed habitat. A further area of 0.2 ha of pine woodland within the eastern part of the site has been removed recently.
- The quarry is located on the northern slope of Scar Hill which rises to an elevation of 282m AOD to the south of the quarry. To the west, the land rises again with Hart Hill reaching an elevation of 267m AOD, and to the north and east the land gently falls before rising again to Brown Muir.
- Immediate surrounding land-use is comprised of mainly plantation woodland with the exception of an area of bare ground (heath and moorland) to the south and farmland to the east. The wider locality includes two further mineral extraction sites along the A941 corridor, namely the Gedloch Quarry approximately 1.3km to the north-west and Rothes Glen Quarry 1.4km to the south.
- The closest residential property to the quarry is Netherglen Farm which lies approximately 150m to the south of the site access. Further properties at Coleburn are located approximately 700m to the north.
- The site is not located within any designated environmentally sensitive areas.
- The SEPA indicative flood map shows that the northern part of the site is currently identified as being at 'medium risk' from river flooding. The SEPA flood map also indicates that the northern area and a small area of the quarry void to be at 'medium or high risk' from surface water flooding.
- The site is located within the catchment of the Red Burn which flows north and east of the site. Red Burn is a tributary of the Glen Burn approximately 200m to the east of the site. The Red Burn flows northwards past the western site boundary and then eastward adjacent to and through the northern part of the site (see Water Management Site Plan 1). The burn is culverted at 3 locations: beneath the haul road, beneath the concrete plant and site offices, and beneath the A941.
- There are no known sites of archaeological interest within the application site boundary.

HISTORY

For the site:

18/00371/SCN - Screening Opinion adopted (11 April 2018) for the current application site area where, in taking account of the characteristics and location of the development and characteristics of the potential impact associated with the development proposed, no

significant environmental effects are considered likely to occur and the proposal does not require to be subject to EIA procedures.

10/00304/APP – Planning consent to erect new concrete batching plant – granted 2 June 2010. This lies within the north-eastern area of the site adjacent to the entrance and is operational.

08/00512/APP – Planning consent to erect new asphalt batching and production plant – granted 14 August 2008. This is also located within the north-eastern area of the site adjacent to the entrance and is operational.

93/00559/FUL - Planning consent for the resumption and extension of hard rock workings, installation of mobile plant, retention of buildings and associated work – granted 9 December 1993. This followed a 10 year period when the quarry was closed. The quarry continues to operate in accordance with this planning consent, which lapsed on 8 December 2018.

MC/180/74 – Planning consent for access road and extension to quarry – granted 22 July 1974.

MC/117/74 – Planning consent granted for weigh-bridge and weigh-bridge office at quarry.

MC/19/65 – Planning consent granted to erect stone crushing, screening and coating plant, power house, switch gear house and garage, electricity sub-station and weigh bridge at Netherglen Quarry.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.
- Advertised under Schedule 3 of the Development Management Regulations 2013.

CONSULTATIONS

Development Plans - As this is an application for an extension of time to an existing consent we have no comments to make.

Transportation Manager – No objections subject to conditions as recommended requiring provision of edge strengthening works to the A941 and site access over a 55 metre length (15m back from the edge of the carriageway (southern side only) and 40m south of the access along the A941), evidence of a 'Wear and Tear' agreement covering the A941 over a 70 length centred at the site access for the lifetime of the development, advanced warning signage at 3 locations (2 southbound and 1 northbound) on the A941 and measures to ensure that no water or loose material drains onto the public carriageway.

Environmental Health - No objections subject to conditions as recommended, regarding hours of quarry operations, noise, monitoring/mitigation measures in the event of noise

complaints being received, blasting (including scheme of monitoring) vibration and hours of blasting operations.

Contaminated Land – No objections.

Private Water Supplies – No objections.

Moray Flood Risk Management - No objections subject to a condition requiring submission/approval of a restoration and aftercare plan which is to include information on phased working and progressive restoration and any associated effects on the water environment.

Developer Obligations – No developer obligations sought.

SEPA - No objections subject to conditions as recommended requiring submission/approval of an up-to-date Site Specific Management Plan (to minimise impacts on the environment and ensure up-to-date operating and environmental standards), and a restoration and aftercare plan which is to include information on phased working and progressive restoration and what effects this will have on the water environment (to retain control of this temporary development and ensure that the site is appropriately restored to protect the environment). Informative notes on regulatory requirements are also recommended.

In terms of flood risk, SEPA notes that the application is only for the extension in the time operation of an existing quarry, there are no changes in the footprint of the operations and any existing flooding issues locally at the site will be mitigated. Highlights consultation responses to the previous applications for plant at the quarry when it raised no objection, based on flood risk studies at the time which demonstrated some risk of flooding in this part of the quarry, but an unlikely risk elsewhere, and also that the development was also viewed as an exception under Scottish Planning Policy (SPP) where the location of the proposal is essential for operational reasons.

Scottish Natural Heritage – No objections. SNH agrees with the conclusions of the accompanying ecological report and that if further survey and broad mitigation, as outlined in the report is implemented then the proposed future extraction works are not considered likely to cause significant effects on the ecology of the site. SNH advises that the recommendations in the report are implemented to minimise adverse impacts on wildlife and the ecology of the site.

RSPB Scotland – No response received at the time of writing this report.

Health and Safety Executive (Quarries) - No response received at the time of writing this report.

Forestry Commission Scotland – No objections. As this is an extant permission FCS would be satisfied if the proposed area of tree removal be reinstated as part of the restoration plan. The submitted compensatory tree planting plan is acceptable, recommends imposition of condition requiring submission/approval of further details and management/establishment plan.

MOD Safeguarding – No safeguarding objection.

Aberdeenshire Archaeology Service – No objection.

Speyside Council - No response received at the time of writing this report.

OBJECTIONS-REPRESENTATIONS

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

One letter of representation was received from:-

[REDACTED].

The grounds of representation or objection are summarised below:-

Issue: Blasting at the site seems to be getting closer and more frequent, with pictures on walls having to be straightened after each blast, and concerned about potential damage to property from another 25 years of blasting.

Comment (PO): The applicants have submitted a specific assessment relating to blasting and vibration. This proposes using charges of a sufficient size so as not to cause damage to neighbouring properties and has assessed the blasting/vibration effects for surrounding properties (including the contributors') using existing readings and vibrations from monitoring a typical blast. In light of the concerns raised by the contributor the applicant has offered to set up measuring equipment at the affected property during the next blast to establish the level of impact and mitigation measures (if required).

The Environmental Health Manager has reviewed the assessment and has raised no objection subject to conditions regarding the monitoring, level of vibration limits and times for blasting operations to ensure that disruption and disturbance to neighbouring properties are minimised and can be controlled. The Environmental Health Manager has also reviewed the submitted objection, and notes that the predicted vibration levels from blasting would be considerably below prescribed vibration limits and that the recommended condition for a vibration monitoring scheme should address any concerns that arise, in addition to the need to meet prescribed vibration limits.

Issue: Noise is getting louder as it is getting closer and with woods being cut down opposite the houses, we are losing the buffer for the noise.

Comment (PO): The application is supported by a Noise Impact Assessment which contains detailed analysis of noise impacts from the proposal and has been reviewed by the Environmental Health Manager. This predicts no significant adverse effects and that noise received at the nearest residential properties (including the contributors') when operations are in progress will not exceed relevant PAN 50 noise criteria limits nor be higher than the measured ambient levels at the two receptor locations. Conditions are recommended in relation to noise in terms of noise levels and hours of operation. These afford the Council adequate control over the quarry extension should noise cause a nuisance.

Issue: Affecting natural environment and over development of site.

Comment (PO): The proposal represents an acceptable form of development for this location which together with appropriate mitigation/conditions would not result in significant adverse impacts on the environment.

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.

Scottish Planning Policy 2014 (SPP) provides further direction of mineral extraction proposals and the need to secure appropriate provision of mineral resources, subject to appropriate site restoration.

Also relevant to the application being for mineral extraction development is advice contained within Planning Advice Notes 50 'Controlling the Environmental Effects of Surface Mineral Workings' and 64 'Reclamation of Surface Mineral Workings' and their associated Annexes. The development would also be subject to consideration under The Management of Extractive Waste (Scotland) Regulations 2010.

Background

In terms of the Hierarchy for planning the application is a major development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 as it involves a proposed mineral extraction area which exceeds 2 hectares. As the application has been made under the terms of section 42 there is no requirement for pre-application consultation.

The proposal was the subject of a request for a formal EIA screening opinion in March 2018 under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Following consideration of this request and accompanying information, the Council, as Planning Authority subsequently issued a screening opinion on 11 April 2018 which confirmed that the proposal was not EIA development and did not require formal EIA procedures.

Annex I of Circular 3/2013: Development Management Procedures details the procedure for considering section 42 applications. This states that when determining a Section 42 application, although authorities may only normally consider the issue of the conditions to be attached to any resulting permission, planning authorities can where appropriate widen the scope of the application to consider the overall effect of granting a new planning permission. With this in mind and given the length of time that has passed since the approval of the original application during which a number of development plans (and guidance) have been adopted, this represents a significant change in material circumstances and as such it is necessary to not only consider the proposed variation to the condition in question, but also to assess the application afresh to consider compliance with the adopted Moray Local Development Plan 2015.

Principle/Impact of Quarry Expansion (ER4, ED7, IMP1, PP1 and PP2)

Policy ER4 Minerals is supportive of applications for mineral extraction involving extensions to existing quarrying operation/sites, where they avoid/satisfactorily mitigate impacts on the natural and built environment and amenity, and include sufficient information to enable assessment of the likely effects of the development together with proposals for appropriate control, mitigation and monitoring. In determining proposals, the policy highlights the following issues for consideration; impacts on natural heritage and historic environment including landscape and visual impact, disturbance and disruption

from noise, blasting vibration and potential pollution of land, air and water noise, effect on communities, cumulative impact, transport impacts, and restoration and aftercare. These issues are addressed below. The policy also requires proposals to be accompanied by an Extractive Waste Management Plan.

Policy ED7 Rural Business Proposals permits extensions to rural businesses provided they meet set criteria, i.e. have a locational justification, appropriate infrastructure exists in terms of access, the natural/built environment is safeguarded and careful control is exercised over siting, design, landscape and visual impact, and emissions.

Policy IMP1 Developer Requirements requires new development to be of a scale, density and character that reflects the surrounding area, and integrates with the surrounding landscape.

Primary Policies PP1: Sustainable Economic Growth and PP2: Climate Change support development proposals which deliver sustainable economic growth and contribute to reducing greenhouse gas emissions by making efficient use of land and infrastructure (subject to provisos).

Netherglen Quarry has been in operation at this location since the early twentieth century, with varying levels of extraction over the years. It has been a long standing feature in the landscape located within rolling landform and woodland on the A941 corridor between Fogwatt and Rothes. The quarry is therefore, without prejudice to the acceptability of its expansion and continuation an established feature within the landscape. The purpose of the application is to allow for the continued extraction of the remaining mineral at this active site, estimated to be approximately 3.6 million tonnes for a further 25 years. The quarry will effectively continue to operate as at present, and the applicant has stated their intent to continue to operate the quarry as per current practices.

With appropriate mitigation and updated conditions the proposal is considered acceptable under the terms of policy ER4 Minerals. The application is supported by sufficient information which includes various technical appraisals to inform assessment of the likely impacts, together with appropriate mitigation measures and restoration arrangements. Subject to conditions where recommended, the proposal accords with policies ER4, ED7 and IMP1.

In terms of the aims of Primary Policies 1 and 2, the proposal will assist with the availability of construction materials, provide jobs and support the local economy. It will help to ensure that Moray has an adequate long term resource of minerals locally for the construction industry, whilst also reducing unnecessary and unsustainable import of materials to the area from elsewhere. This is consistent with the aims of policy PP1 Sustainable Economic Growth and PP2 Climate Change where use of local resources and building materials are encouraged.

Impact on Natural Heritage and Historic Environment (ER4, E3, BE1, IMP1)

The application is supported by several assessments to inform consideration of the impact of the proposal upon the natural and built environment. These include, in addition to the Planning Statement, a Preliminary Ecological Appraisal (PEA) which comprises habitat survey and investigations of the presence or otherwise of protected species.

The PEA identifies the primary habitat types present on site to be a mix of dry heath and native pine woodland, some of which will be lost as a result of the proposal and also

includes findings from field survey work in relation to species likely to be affected (bats, otter, squirrel, pine martin, badger and birds). From these findings and analysis, the PEA considers that the proposed continuation of extraction works and expansion into the adjacent heath and woodland are unlikely to cause unacceptable impacts on natural heritage interests (protected habitat or species), provided recommended broad mitigation measures and pre-felling checks as outlined within the report are adopted. The un-worked area within which the quarry operations will expand into is predominantly dry heath/moorland and native pine woodland. It has limited ecological value as its location adjacent to the working quarry, will have made these areas less attractive to some species susceptible to human disturbance and activity. Scottish Natural Heritage has assessed this information and agrees with the conclusions of the report, and provided further survey and mitigation as outlined within the appraisal report is implemented, considers that the proposal is unlikely to cause significant effects on wildlife or the ecology of the site. These recommendations shall form the basis of a planning condition.

The proposal site is not subject to any landscape or environmental designations although natural heritage interests are present within the wider area, in this case two SSSI's 1.3km to the north and 3.6km to the south. The proposal would have no adverse impacts on these designated areas given the separation distances involved.

There are also no known sites of archaeological interest within the application site boundary, although there are several in the wider area. Following consultation, the Aberdeenshire Archaeology Service has raised no objection to the granting of permission.

Although the proposal will result in the loss of an area of pine woodland, this is addressed by compensatory woodland planting on land immediately adjacent to the south of the site and re-planting within the quarry for landscaping purposes, and is discussed below.

Based on the above considerations and subject to conditions where recommended, the proposal is not considered to result in significant adverse effects on natural heritage or historic environment interests and therefore accords with policies ER4, E3, BE1 and IMP1.

Landscape and Visual Impacts (ER4 and IMP1)

The application is supported by a Landscape and Visual Assessment (LVA). This assesses the potential effects of the proposed continuation of quarrying upon the landscape, amenity and visual receptors (including cumulative impacts). It includes maps of 'Zones of Theoretical Visibility' (ZTV maps and a Landscape Character Type (LCT) Map) in addition to photomontages of the quarry from five locations, one at the access to the east and the remaining four to the north where views are possible.

The ZTV maps show that the proposal will be largely screened by surrounding topography and woodland, when viewed from the south, west and east, with views of the development limited mainly to vantage points along the A941 corridor and surrounding countryside to the north and west. This is evident from the accompanying montages which show that the proposed workings and lower benches of the quarry will continue to be largely screened from view (by a combination of landform and woodland), the exception being the upper benches (phase 1) which will result in a slight elongation and encroachment into adjacent moorland and woodland within the unworked part of the site. However given that this loss is limited to a small area of moorland/woodland cover within the Upland and Moorland Landscape Character Type and fact that the quarry site is an established feature in its own right within the landscape, the LVA considers that the proposals are unlikely to be detrimental to the overall character and appearance of the landscape. In visual impacts

terms, the LVA concludes that the proposal will appear as a continuation of current extractive operations, and as views of the site are extremely limited from the surrounding area, this will result in a barely perceptible change to existing views, as illustrated in the accompanying photomontages.

Due to the proximity of the proposal with the nearby Gedloch Quarry 1.3km to the northwest and the way in which the two developments may be experienced the LVA also assesses cumulative impact. This concludes that whilst views of the proposal in combination with Gedloch are likely from viewpoints 2 and 5, the cumulative effects would not be significant due to the extent of mature woodland plantation encompassing both quarries, only the upper portions of extraction faces would be visible and the limited locations from which both developments can be viewed in combination.

A Concept Restoration Scheme (revised) is included within the Planning Statement, which sets out details of progressive and final restoration/aftercare proposals based on the phased approach to the quarry development. This would involve progressive restoration taking place, with each completed bench and quarry face being graded with overburden and soils to provide a rooting medium for vegetation and trees, which overtime will allow the visible quarry faces to blend with the surrounding landscape in terms of texture and colour. This will benefit the site visually and soften the appearance of the freshly exposed rock well in advance of the final restoration period. These arrangements shall be covered by condition.

From the above considerations, the continuation of extractive operations read in the context of this established quarry is acceptable. The expansion of operations into the adjacent heath/moorland can be readily absorbed by the wider landscape and will not be unduly obtrusive to any visual receptor. In terms of landscape and visual impact resulting from the development, the degree of change in the character (landscape and visual) and extent of the quarry will be contained within the surrounding undulating landform and woodland cover.

Subject to conditions where recommended and progressive and final and restoration planting being implemented, the proposal will therefore not result in significant adverse landscape or visual effects, and accords with the landscape character elements of ER4 and IMP1.

Impacts from Noise, Blasting Vibration, and Potential Pollution of Land, Air and Water (ER4, EP8, EP12, and IMP1)

Policies EP8 Pollution and EP12 Air Quality require developments that may cause significant (noise or air) pollution to be supported by detailed assessment and to demonstrate that such pollution can be appropriately mitigated. The applicant has submitted Environmental Noise and Blasting Assessments based on relevant guidelines within Planning Advice Note (PAN) 50 'Controlling the Environmental Effects of Surface Mineral Workings'. These assessments have informed the consultation response from the Environmental Health Manager.

The Environmental Noise Assessment assesses the potential effects of the proposed quarry operations on the closest noise sensitive receptors, Netherglen Farm located 150m to the east and the hamlet of Coleburn 700m to the north. Identified operations include soil and overburden handling, production of asphalt and ready mix concrete, loading and dispatch of aggregates, drilling of blast shot holes etc. The assessment predicts no significant adverse effects, and that noise received at the closest residential

properties when operations are in progress will not exceed relevant PAN 50 noise criteria limits and be no higher than the measured ambient levels at the two receptor locations. It also confirms the applicant's intention to continue to operate the quarry within PAN 50 noise criteria.

The Environmental Blasting Assessment assesses the effects from explosive blasting and vibration generated at the site. Blasting already occurs at the quarry, so is not an uncommon event at this location. The submitted assessment provides a detailed analysis of the intended method of blasting using existing readings and vibrations from monitoring a typical blast, along with recommendations to minimise impacts on nearby receptors. This predicts no significant adverse effects on surrounding residential properties, vibration effects will fall within limits suggested in PAN 50, and provided the recommendations are followed quarry operations can continue without giving rise to nuisance complaints.

In terms of air quality, given the separation distance to neighbouring properties, the containment from the quarry sides, intervening woodland and the continued operation of standard dust mitigation measures, there is limited need to control dust beyond the quarry itself which is unlikely to give rise to significant adverse effects. Although the site access runs between 150 and 300m from Netherglen Farm, this part of the road is surfaced with bitmac which minimises the potential for dust generation.

The Environmental Health Manager has reviewed these assessments and has raised no objection subject to conditions to protect amenity, controlling hours of quarry operations, noise, monitoring/mitigation measures in the event of noise complaints being received, blasting (including scheme of monitoring) vibration and hours of blasting operations. These shall be attached to the decision notice as recommended.

In relation to pollution prevention the applicant has confirmed that the quarry currently employs measures to protect groundwaters with emergency spill kits available close to all plant and equipment with suitably trained staff to respond to any incidents, and these measures will continue to be employed for duration of the development. SEPA has been consulted in this regard and has raised no objection subject to a condition requiring submission/approval of an updated Site Specific Management Plan (in consultation with SEPA) within 3 months of the grant of consent (unless otherwise agreed), to minimise the impacts of the mineral extraction works on the environment and ensure up-to-date operating and environmental standards on site.

From the above considerations and subject to the recommended conditions regarding blasting, noise and provision of an updated Site Specific Management Plan the proposal complies with policy ER4 Minerals, EP8 Pollution and EP12 Air Quality.

Transport Impacts (ER4, T2 and IMP1)

The proposal will continue to utilise the existing entrance and junction with the A941 which provide a suitable and direct means of access onto the primary road network with no change to current traffic movements (up to 60 movements per day). As the output from the quarry is projected to remain at up to 150, 000 tonnes per annum similar to current levels, the traffic generation associated with the development will not result in any additional significant impacts on the local road network, over and above those existing.

The Transportation Manager has raised no objection subject to conditions as recommended requiring provision of edge strengthening works to the A941 and site access over a 55 metre length (15m back from the edge of the carriageway (southern side

only) and 40m south of the access along the A941), evidence of a 'Wear and Tear' agreement covering the A941 over a 70 length centred at the site access for the lifetime of the development, advanced warning signage at 3 locations (2 southbound and 1 northbound) on the A941 and measures to ensure that no water or loose material drains onto the public carriageway.

On the basis of the conditions recommended, the road network is capable of accommodating the continuation of quarrying operations and complies with the requirements of policies ER4, T2 and IMP1.

Drainage and Flood Issues (EP5 & EP7)

Based on the SEPA indicative flood maps, the northern part of the site, including the haul road and processing area to be at 'medium risk' from river flooding. It also shows the northern area and a small area of the quarry void to be at 'medium or high risk' from surface water flooding. As such the proposal requires assessment against policy EP7 Control of Development in Flood Risk Areas, and consultation with SEPA and the Flood Risk Management Section.

Both SEPA and the Flood Risk Management team have reviewed the submitted Flood Risk Assessment and Surface Water Management Plan for the proposed quarry continuation/expansion. This will involve surface water from the proposed extraction works being captured/controlled by the current surface water drainage regime at the site which comprises a series of lagoons, settlement sumps, tanks/soakaways and sizeable, to provide the necessary attenuation and treatment of run off prior to discharge. These arrangements also benefit from a SEPA Controlled Activities (CAR) discharge licence which stipulates controls on both the quality and volume of water discharged from site and is subject of routine audits by SEPA. Although the proposal will result in an increased footprint of the excavation and change to internal flow patterns as the quarry void progresses, the increase(s) in volume of groundwater/effluent requiring treatment are not anticipated to be significant and with ongoing regular monitoring of effectiveness will be adequately managed by existing drainage arrangements.

The Flood Risk Assessment further concludes that the proposal is not at significant risk from flooding nor is it likely to cause increased risk offsite due to a combination of factors, namely the surface water management measures employed are designed to attenuate storm flows and reduce of the magnitude of peak flows, site levels/buildings/access and stockpiles are located outwith the floodplain and attenuation effects from the nearby reservoir upstream in the headwaters of the Red Burn which will reduce flows from the burn.

Following consultation, SEPA has raised no objection on flood risk grounds since the application relates solely to the extension in the time operation of an existing quarry, there are no changes in the footprint of the operations and any existing flooding issues locally at the site will be mitigated. By way of background, SEPA has also highlighted its consultation responses to the previous applications for plant at the quarry when it raised no objection, based on flood risk studies at the time that demonstrated some risk of flooding in this part of the quarry, but an unlikely risk elsewhere, and also that the development was also viewed as an exception under SPP where the location of the proposal is essential for operational reasons.

The Flood Risk Management Section has similarly raised no objection on flood risk grounds, and has recommended a condition requiring submission/approval of a

restoration and aftercare plan to include information on phased working/progressive restoration and any associated effects on the water environment.

From the above, the proposed drainage arrangements comply with the requirements of policies EP5 Surface Water Drainage and EP7 relating to flood issues.

Restoration and Aftercare Proposals (ER4, EP8)

As part of the Planning Statement and other submissions, the applicants have provided a Concept Restoration Scheme and Plan detailing how they intend to restore the site once the mineral extraction phases come to an end, along with aftercare proposals. This would involve progressive restoration taking place during the lifetime of development, with each completed bench and quarry face being graded with overburden and soils to encourage vegetation re-establishment to create habitat and enhance biodiversity. The final restoration and consolidation of landscaping and removal of buildings/plant once all extraction has ceased would see the final landscaping and restoration works be undertaken.

In order to ensure implementation of the above proposals, a condition requiring submission and approval of a final restoration and aftercare plan at least one year prior to mineral workings ceasing on the site and prior to phased restoration works shall be attached to the planning consent as recommended by SEPA. This is to include detailed information on phased working and progressive restoration as well as effects of restoration on the water environment to ensure the protection of the environment.

Development in Woodlands (ER2 and E4)

Policy ER2 Woodlands (in line with the Scottish Government policy) permits removal of woodland where it can be demonstrated that its loss is clearly outweighed by social or economic benefits at national/regional/local level, and if compensatory planting has been agreed. Woodland removal within the terms of this policy is defined as the permanent removal of woodland for the purpose of conversion to an alternative land use, the aim of which is to avoid clear felling of woodlands for development, unless terms of the policy are met. Policy E4 Trees and Development protects trees/woodland and where this is removed in association with development, the provision of compensatory planting.

The proposed continuation of extractive operations at the quarry will result in removal of 1.4ha of woodland from the site. In terms of policy ER2, this loss whilst noted would be outweighed by the clear economic benefits from the proposal which would continue to provide locally sourced construction material and employment opportunities, and the policy support afforded to the proposal by the Primary Policies 1 and 2 given its contribution to economic growth and sustainable location.

The applicant has also submitted a compensatory tree planting plan which identifies replacement tree planting for an equivalent area along the southern outer edge of the site (land within the applicant's control) and upper bench of phase 1, to be carried out in 2020 and following completion of phase 1. A suspensive condition requiring submission/approval of a management/establishment plan covering implementation of these arrangements shall be attached to the decision as recommended by the Forestry Commission Scotland.

From the above and subject to the condition as recommended, the proposal is not considered to have unacceptable significant adverse effects on forestry and the proposal is considered to be compliant with policy ER2.

MOD Safeguarding Areas (EP13)

The proposal falls within the safeguarding zone surrounding the MOD airfield at Lossiemouth, requiring consultation with the MOD Defence Infrastructure Organisation on minerals applications. The MOD has raised no safeguarding objection to the proposal.

Extractive Waste Management (ER4, EP8)

An updated Extractive Waste Management Layout Plan and associated information which identifies an extractive waste area (for storing inert waste (overburden, crushed rock, gravel or fines.)) on the site has been submitted with the application as required under policy ER4 and the Extractive Waste Management (Scotland) Regulations 2010. This has been assessed in terms of pollution prevention and monitoring and is considered acceptable in terms of meeting the regulations. In terms of non-inert waste (unpolluted soils, peat, non-waste by product waste) a separate request for the regulations to be waived can be accepted, on the basis that this can be managed/stored on site without endangering human health or the environment.

Conclusion

Subject to the conditions recommended, the proposed continuation of extraction operations and expansion for a 25 year period is acceptable and would not give rise to unacceptable or detrimental impacts and would accord with the requirements of the Moray Local Development Plan 2015.

REASON(S) FOR DECISION

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

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

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Moray Local Development Plan 2015 - Material Consideration

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

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

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

Policy ER4: Minerals

The Council will support, in principle, mineral extraction in the following circumstances;

- Extension to existing operations/sites,

- Reopening of a dormant quarry,
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

New minerals sites will only be permitted where it has been demonstrated that existing reserves have been exhausted or are no longer viable and for construction aggregates it has been evidenced that there is less than the minimum 10 year supply available.

Borrow pits will be supported to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

Taking into account PAN 50 Controlling the Environmental Effects of Surface Minerals Workings sufficient information should be provided to enable a full assessment of the likely effects of the mineral development together with proposals for appropriate control, mitigation and monitoring.

Minerals developments should avoid or satisfactorily mitigate impacts, in determining proposals the Council will give consideration to the following issues;

- Impact on natural heritage and historic environment including landscape and visual impact,
- Disturbance and disruption from noise, blasting vibration, and potential pollution of land, air and water,
- Effect on communities,
- Cumulative impact,
- Transport impacts,
- Restoration and aftercare proposals.

Once a mineral working has ceased the land should be reinstated at the earliest opportunity. Restoration should be designed and implemented to the highest standard and after uses should result in environmental improvement and add to the cultural, recreational or environmental assets of the area. If operators cannot demonstrate that their programme of restoration (including the necessary financing, phasing and aftercare of the sites) is sufficient a financial guarantee may be sought;

Proposals should be accompanied by an Extractive Waste Management plan.

Policy 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 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 BE1: Scheduled Monuments and National Designations

National Designations

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

Local Designations

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

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

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

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

Policy 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 EP12: Air Quality

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

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors

to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved.

Policy 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 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 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 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 EP13: Ministry of Defence Safeguarding Areas

Certain categories of development within particular distances from MoD airfields at Lossiemouth and Kinloss require to be subject of consultation with Defence Infrastructure Organisation. This applies to a wide range of development proposals which could have implications for the operation of the airfields and includes aspects such as height of buildings; use of reflective surfaces; refuse tips; nature reserves (and other proposals which might attract birds);

Full details of the consultation zones and development types are held by Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

Policy 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.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
29 JANUARY 2019**

SUBJECT: PLANNING PERFORMANCE FRAMEWORK 2017/18

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report presents the Planning Performance Framework (PPF) for 2017/18, as submitted to the Scottish Government (SG) on 12 July 2018, covering the period 1 April 2017 to 31 March 2018 for the Moray Council. It summarises 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.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee:-

- (i) **note the Planning Performance Framework submitted to the Scottish Government on 12 July 2018 (Appendix 1);**
- (ii) **note the feedback report received from the Scottish Government on 10 January 2019 (Appendix 2);**
- (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.**

3. **BACKGROUND**

- 3.1 The Council has now prepared Planning Performance Framework (PPF) reports for the last seven years with the latest one covering 2017/18 in July 2018. The primary purpose of the PPF is to provide Ministers, Councils and the public with a better understanding of how a planning authority is performing and delivering high quality development on the ground.
- 3.2 In 2016/17 the Council received eleven green awards, the highest number since the PPF was introduced and only one was amber. Two of the categories were not relevant to Moray at the time of submission. The amber award was due solely to the report being unclear as to how the replacement Local Development Plan is project managed and for no other reason as the scheme was on course to be delivered to planned timescale. Average decision making timescales for Major Developments were at a level of 16.9 weeks, Local Developments (Non-householder) were at 7.2 weeks and for Householder Developments was at 5.7 weeks.
- 3.3 The PPF submitted for 2017/18 is attached at **Appendix 1** and follows the updated template issued by the SG with a greater emphasis on the use of case studies to illustrate how key performance markers are met in Moray.
- 3.4 As part of the SG's feedback a summary of performance is included covering the last six years since the PPF was first introduced (tables below). This clearly shows how the number of key markers changed to green have increased year on year.

MORAY COUNCIL **Performance against Key Markers**

Marker		2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
1	Decision making timescales						
2	Processing arrangements						
3	Early collaboration						
4	Legal agreements						
5	Enforcement charter						
6	Continuous improvement						
7	Local development plan						
8	Development plan scheme						
9	Elected members engaged early (pre-Main Issues Report (MIR))		N/A	N/A	N/A	N/A	
10	Stakeholders engaged early (pre-MIR)		N/A	N/A	N/A	N/A	
11	Regular and proportionate advice to support applications						
12	Corporate working across services						
13	Sharing good practice, skills and knowledge						
14	Stalled sites/legacy cases						
15	Developer Contributions						

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

2012-13	3	6	6
2013-14	2	5	6
2014-15	1	4	8
2015-16	1	3	9
2016-17	0	1	12
2017-18	0	1	14

Decision Making Timescales (weeks)

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	<i>2017-18 Scottish Average</i>
Major Development	55.7	98.2	13.1	20.0	16.9	16.5	37.1
Local (Non-Householder) Development	20.0	13.5	8.5	7.5	7.2	6.6	11.1
Householder Development	10.1	7.1	5.8	6.3	5.7	5.3	7.3

4. FEEDBACK FROM SCOTTISH GOVERNMENT ON THE MORAY PPF FOR 2017/18

- 4.1 Written feedback was received on 10 January 2019 by way of a letter from the Minister for Local Government and Housing to the Council's Chief Executive, enclosing a feedback report on a total of fifteen 'performance markers'.
- 4.2 The letter states "As you may be aware, the Planning Bill has recently passed through the second stage of parliamentary consideration, during which the Local Government and Communities Committee voted to remove the proposed provisions on planning performance, provision to make training for elected members mandatory, and the existing penalty clause provisions. Whatever the outcome of the Planning Bill, I believe now is the right time to look again at how we measure the performance of the planning system. I very much hope that we can continue to support ongoing improvements in our planning service and further demonstrate the value which the planning system can add to people's lives. Ministers see an important connection between performance and fees and I am aware that any proposals to increase fees will raise applicant's expectations of an efficient and effective service. We need to be able to measure performance to provide that crucial evidence to support any increase in fees, to help ensure that authorities are appropriately resourced to deliver on our ambitions".

5. PERFORMANCE MARKERS REPORT 2017/18

- 5.1 There are fifteen performance markers, each one receiving either a red, amber or green RAG rating. Only one marker is in the amber category and this relates to the numbers of legacy cases in the reporting period which was 1 with 1 still awaiting conclusion. This legacy case has now been cleared. All other fourteen categories are green.

- 5.2 One of the key markers relates to decision-making that requires Local Planning Authorities to demonstrate continuous reduction in average timescales for all development categories and is worthy of noting as it is green again. Local (Non-householder) applications have reduced from 7.2 weeks to 6.6 weeks which demonstrates that improvements have been made. Householder applications average timescales have reduced significantly from 5.7 weeks to 5.3 weeks. As for major applications the average has also reduced from 16.9 weeks to 16.5 weeks. All average timescales sit below the Scottish average. It is hoped that this level can be maintained for 2018/19 and if possible improved upon but this is dependent on the numbers of applications received and their complexity. Major applications are important to the Moray economy and the majority are covered by processing agreements to help be determined timeously and continue to be the number one priority.
- 5.3 The fourteen green awards are an increase in the 12 from the previous year (as two categories were previously not relevant due to timing). The one amber rating could be turned green next year if the current application subject of a S.75 legal agreement is issued before the end of March 2019 and if current performance levels can be maintained within the current financial constraints.
- 5.4 The PPF also identifies a number of Service Improvements for 2018/19 to improve quality within the service and these have been incorporated into action programmes for each team to deliver and to be reported into subsequent submissions.

6. BENCHMARKING SOLACE FAMILY GROUP 2

- 6.1 As the feedback from the SG now focusses solely on the 15 key performance markers the wider feedback of the PPF through agreement with the Heads of Planning is being carried out through the benchmarking groups.
- 6.2 A recent benchmarking meeting was hosted by Moray and was attended by representatives from Highland and Aberdeenshire Council and the Cairngorms National Park Authority with Angus and Shetland Council dialling in. Moray has been paired with Orkney Council to exchange specific feedback on the document and to share learning which can be used to improve the service in future years. Shared learning also comes from the other Local Planning and Park Authorities attending the meeting.

7. SUMMARY OF IMPLICATIONS

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

The 10 year plan's top priority is a growing, diverse and sustainable economy. It covers business, employment, infrastructure, public services and developing sustainable communities. The PPF is a vital aspect of supporting and facilitating the Council's priority for economic growth and supports the Service Plan to deliver service improvements. The ten year plan includes a table headed "How long it takes to process planning applications, the target for 2016-17 is 10.4 weeks".

(b) Policy and Legal

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

(c) Financial implications

There are no direct financial implications arising from this current report. However, there are financial risks associated with the PPF in future years with specific emphasis likely to be placed on average timescales for determining planning applications. The Scottish Ministers have powers to vary the planning application fee payable to different planning authorities where the functions of a planning authority are not being met, or have not been, satisfactorily performed.

(d) Risk Implications

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

(e) Staffing Implications

The preparation of the PPF utilises existing staff resources and there are currently no staffing resource implications arising from this report but close monitoring of performance will be required to ensure adequate staff resources are available to maintain current performance levels and make further improvements. Any significant increases in planning applications would likely impact on performance but would depend on their complexity. Any cut in current staff resources would have a significant impact on the delivery of an efficient, adequately resourced planning service which is a key objective of the SG supporting economic prosperity across Scotland.

(f) Property

None.

(g) Equalities/Socio Economic Impact

There are no equalities issues arising from this report.

(h) Consultations

Corporate Director (Economic Development Planning & Infrastructure), Head of Development Services, Gary Templeton (Principal Planning Officer), Legal Services Manager (Property & Contracts), Paul Connor (Principal Accountant), Caroline Howie, (Committee Services Officer), Equal Opportunities Officer, the Planning & Economic Development Manager, the Transportation Manager and the Environmental Health Manager have been consulted and comments received have been incorporated into the report.

8. CONCLUSION

- 8.1 The Planning Performance Framework submitted to the Scottish Government for 2017/18 and the associated feedback received demonstrates that continuous improvements have been made in decision making timescales (below the Scottish National Average), the Local Development Plan is on track for adoption within the programmed**

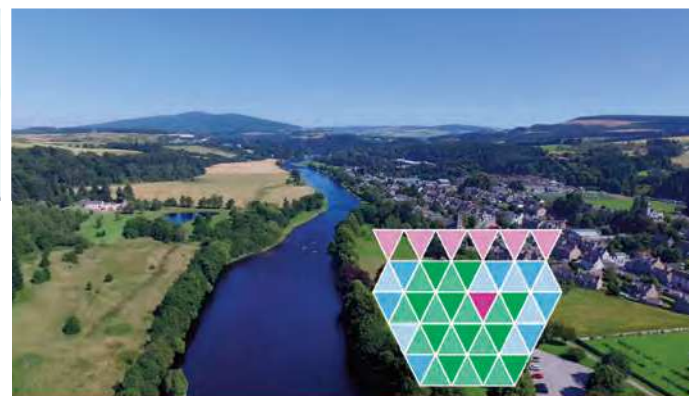
timescale and over the last 12 months continuous improvements have been made improving the quality of the planning service that is fundamental to supporting economic growth.

Author of Report: Beverly Smith, Manager (Development Management)
Background Papers:
Ref:

PLANNING PERFORMANCE FRAMEWORK

7

ANNUAL REPORT 2017 - 2018





FOREWORD

As Chair of the Planning & Regulatory Services Committee I am delighted to endorse the Planning Performance Framework for 2017/18 as the last 12 months has seen a number of significant major planning applications determined supporting economic growth and creating jobs for people living in Moray.

Work on Elgin High has been completed along with a new visitor centre/distillery at Macallan and work has just started in Elgin South on the New Moray Sports Centre. A number of affordable housing projects have also started and been completed in Forres, Elgin, Buckie and Keith.

A number of case studies have been included in this report which cover a range of topics and demonstrate how Moray provides a high quality planning service and how it works in partnership with a number of key agencies and stakeholders. The case studies cover working in partnership with Elgin Bid and town centre regeneration, Validation process, Dallas Dhu masterplan, Joint working with NHS Grampian and Infrastructure Delivery Group, Condition monitoring, Touch screen mapping, Youth engagement and redevelopment of a former garage in Fochabers.

Service improvements and actions have been identified as we strive to continuously improve our service standards and look forward next year to completing work on the next Moray Local Development Plan 2020.



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

PART 1

Qualitative Narrative and Case studies

1.1 QUALITY OF OUTCOMES

High quality development on the ground is a key aspiration of both national and local planning policies and the Council has seen an improvement in outcomes being delivered, with closer working between Council services being a key aspect of this. Longer term masterplans, development briefs and the Quality Audit process are all tools which the Council use to raise the standards of design. As well as the adopted Masterplans for Elgin South and Findrassie in Elgin, a masterplan has now been approved for Dallas Dhu in Forres and a draft masterplan approved for consultation at Bilbohall, Elgin and Kinloss Golf club.

CASE STUDY 1

Dallas Dhu Masterplan

Location: South Forres, Moray

Elements of a High Quality Planning Service this study relates to:

Quality of Outcomes

Quality of service and engagement

Key Markers: 11

Production of regular and proportionate policy advice

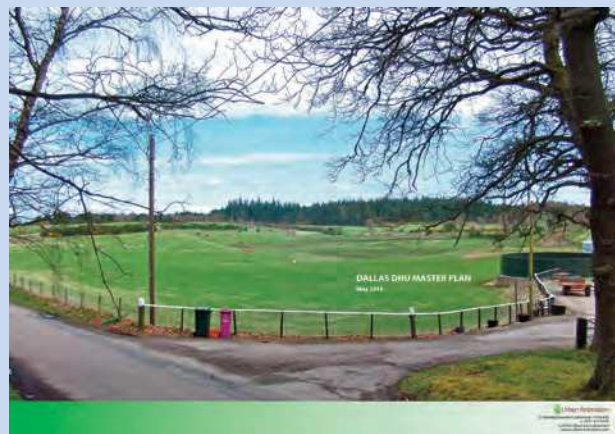
Key Areas of Work

Design, Conservation, Environment, Greenspace, Masterplanning, Housing Supply, Interdisciplinary Working, Collaborative working, Placemaking

Stakeholders Involved

General Public

Key Agencies





Overview: The Moray Local Development Plan 2015 identifies 2 short term and one longer term housing sites at Dallas Dhu, south Forres. The Plan requires a masterplan to be prepared covering all three sites and Altyre Estates have been working closely with Moray Council officers to prepare the Masterplan which was approved as operational in May 2018. The Masterplan responds to a brief prepared by Council officers requiring the Masterplan to address the 6 elements of creating a successful place.

The sites are in a unique and challenging setting, with the listed category A Dallas Dhu distillery to the south, the Dava Way long distance footpath on a former railway line running through the site and the extensive Chapelton flood water reservoir to the east of the site. The Masterplan aims to aspire for high quality design and to consider the constraints as opportunities to make Dallas Dhu a wonderful place to live.

The Masterplan has been subject to a number of public consultation events which were run in partnership between Altyre Estate and Moray Council. The Masterplan has also been subject to review by Architecture and Design Scotland Design Panel which has tested, challenged and added value to the final Masterplan. The Masterplan is a good case study of partnership working between landowners and Moray Council to realise high quality development.

Goals: The goal was to prepare a Masterplan which respected the unique setting and challenges of the sites identified at Dallas Dhu, notably the setting of the A listed building, flood storage area, Dava Way long distance footpath and respecting a series of wooded knolls in the landscape.

The ambition was to support the Council's ambitions to create successful places, which accorded with the aspirations which Altyre Estate, the landowner have for the site.

Outcomes: The Masterplan is now approved as supplementary guidance and sets the framework for approximately 160 houses split into different character zones, with density lowering to reflect the transition from urban to the rural edge. The three character areas are:

- **Mannachie** - creating a strong frontage onto Mannachie road, a central spine street running through the character area and a series of small courtyards.
- **Dallas Dhu** - houses fronting onto a tree lined street, houses grouped in short terraces and small courtyards and parking primarily in small shared courts behind the street frontage.
- **Rural Edges** - houses will face the surrounding landscape and open space, houses will be grouped in traditional rural form and set into the landscape.

Name of key officer

Emma Gordon, Planning Officer

Email: emma.gordon@moray.gov.uk

Richard Heggie, Urban Animation

Email: richard@urban-animation.com



CASE STUDY 2

Working in partnership with NHS Grampian to promote health and wellbeing through the planning system

Location and Dates: Ongoing

Elements of a High Quality Planning Service this study relates to:

Quality of outcomes, culture of continuous improvement

Key Markers: 9, 10 and 12

Cross sector stakeholders, including industry agencies and Scottish Government , early pre MIR in development plan preparation.

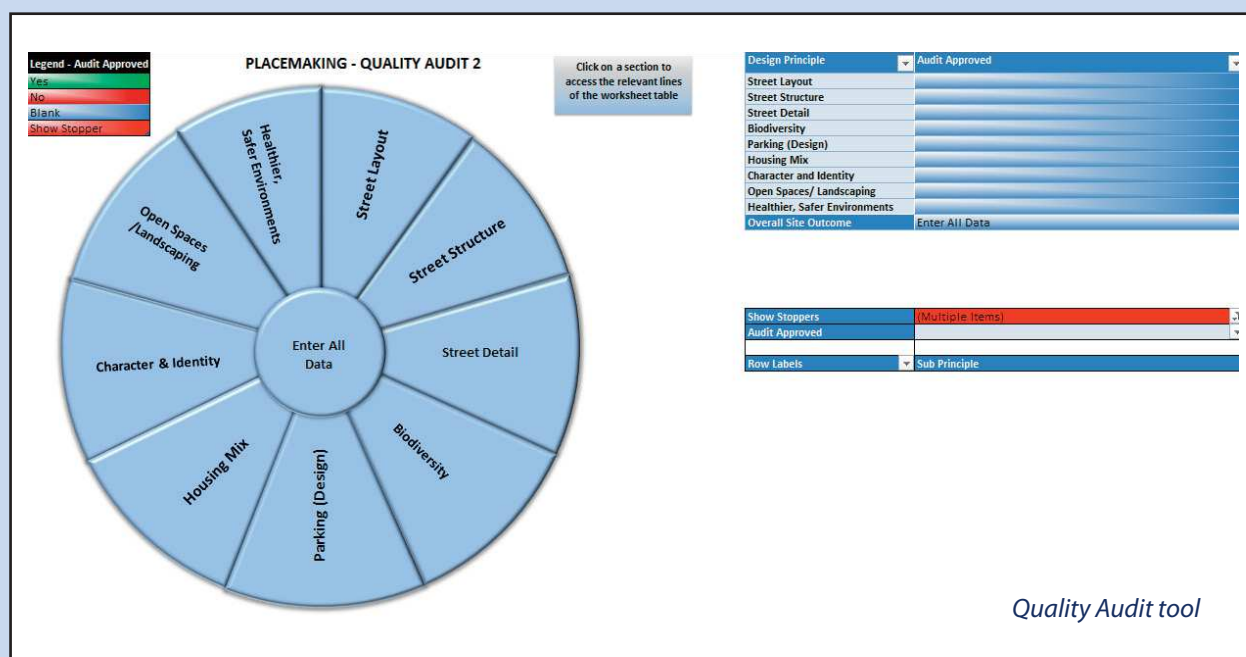
Corporate working across services to improve outputs and services for customer benefit

Key Areas of work: Environment, Greenspace, Local Development Plan, Interdisciplinary working, collaborative working, Placemaking, Active Travel

Stakeholders involved: Moray Council officers from Planning, Housing and Social Care, Chief Officer Moray Integrated Joint Health Board and officers from NHS Grampian.

Overview: The Council has been working closely with NHS Grampian over the last few years to ensure that a robust and up to date evidence base is maintained for securing Developer Obligations. This has led onto more detailed discussions around how the Council and NHSG can work together to promote healthier places aiming to help encourage health and well-being in both existing and new developments which will help with issues of obesity, dementia and other health issues.

Goals: To align health and well being objectives with spatial planning, incorporate the aspirations of “Mood, Mobility, Place” into new Local Development Plan policies, embed health and well-being into the Quality Audit process, continue to develop joint working between planners and health care professionals in planning new developments and to use the Local Development Plan as a delivery mechanism promoting health and wellbeing and supporting the aspirations of the Local Outcome Improvement Plan (LOIP).



Outcomes: Health infrastructure requirements are identified in the Main Issues Report for the MLDP2020 and are set out in the revised Developer Obligations Supplementary Guidance adopted in March 2018. The Council hosted and chaired a workshop with planners, housing officers and a range of healthcare and social care staff in early 2018 to discuss ways of creating healthier places and how to overcome barriers to achieving this goal. The Council are keen to support the “Mood, Mobility, Place” project and to integrate this project and other health objectives in the new policies in the Moray Local Development Plan 2020 and the Quality Auditing process used for assessing the placemaking qualities of planning applications.

The Quality Audit tool has been revised to embed health and well-being and this will be consulted upon with the Proposed Plan.

Officers from Moray Council and NHS Grampian have given presentations to a number of groups including NHS national asset and property management group and Moray Community Planning Partnership.

Name of key officer

Gary Templeton, Principal Planning Officer
gary.templeton@moray.gov.uk

Allan Robertson, Assistant Property Planning Manager,
NHS Grampian allan.robertson1@nhs.net

Two of the case studies detailed in our PPF6 were shortlisted in the Scottish Planning & Architecture Scottish Awards for Quality in Planning 2018. Both were regeneration projects related to listed buildings at Victoria Cottages in Elgin and Blair’s Home Farm, based at Altyre Estate in Forres. Both schemes are fine examples of where working together with colleagues in Building Standards and Historic Environment Scotland produced high quality outcomes.

One scheme that has been completed this year is the redevelopment of a former garage site in a prominent High Street Location in a Conservation Area in Fochabers. The scheme is set out as a good example of how pre-application advice can help deliver high quality development on the ground.



CASE STUDY 3

26-32 High Street, Fochabers



Location and Dates: Fochabers 2015 - 2017

Elements of a High Quality Planning Service this study relates to: Quality of Outcomes

Key Markers: 2 & 3

Key Areas of Work: Development Management Processes, Conservation, Design, Planning Applications

Stakeholders involved: General Public, Local developers, Authority Planning Staff, Authority Other Staff

Overview: There was a detailed pre-application discussion process with a series of meetings held that resulted in the proposal being redesigned before it was submitted. There were further changes to the design, materials and also to the design of the flats to the rear so that the final form of development would preserve and enhance the respective locations within the conservation area. As the site was a former garage, with redundant fuel tanks still submerged, it was essential to ensure key consultees from Environmental Health (Contaminated Land) and

Transportation were both involved in providing pre-app advice which assisted with those aspects at point of submission.

Goals: The site was identified as an opportunity site within the Local Development Plan and had lain vacant for a number of years despite being located in a prominent position on the main High Street. An existing redundant showroom and garage, set back from the High Street, and located in a Conservation Area, has been replaced with a retail store and residential development that brings the replacement building frontage in line with the rest of the street and in doing so preserves and enhances the character of the Conservation Area. The scheme that has been implemented is of a high quality and provides homes for local people and for an existing store in the town to re-locate and expand creating both employment and a place to shop locally.

Outcomes: This scheme highlights the benefits of investing staff resources into pre-application discussions and is essential to delivering high quality development in the right place. Without the pre-application discussions held and involvement from key consultees the scheme presented would not have gained planning consent. Having one point of contact and ensuring that the Planning Officer providing the pre-application advice then dealt with the planning application is essential to delivering development on the ground.

Name of key officer:

Craig Wilson, Planning Officer
(Listed buildings and Conservation Areas)
Email craig.wilson@moray.gov.uk

Bob Milton Properties Ltd
Colin Thompson Architects

Following the local government elections in May 2017, a considerable amount of training has been undertaken with elected members on planning issues, with a particular emphasis upon early engagement on the “Main Issues Report” stage of the local development plan preparation process. A number of presentations and workshops were held with members, collectively and at ward level to discuss what the main strategic land use issues and challenges facing Moray are and also more ward level site issues and challenges.



The Main Issues Report was approved by the Council's Planning and Regulatory Services Committee in December 2017 and made available for 12 weeks public consultation between January and end March 2018. The engagement process aimed to recognise the positive benefits the planning system brings to the local

area through provision of much needed housing, employment land, local services and safeguarding of the environment. The engagement process also aimed to address three specific service improvements which had been identified at the end of the LDP15 process, to engage better with community planning partners; to reach a wider audience, particularly younger people and to make better use of technology.

The engagement exercise involved 9 drop in exhibitions, with the exhibition materials “tested” through an earlier drop in event for staff. Touch screen interactive mapping was used with 6 touchscreens and a series of short films highlighting the main planning issues with interviews featuring community planning partners. Exhibitions were very well attended with special events held for the Joint Community Councils, Community Planning Partnership and the Federation of village halls. The short films can be viewed at Moray Council You Tube website.

A short film competition was held for schools following a presentation to Head Teachers. The competition was won by pupils of Buckie High School and can be viewed at Moray Council You Tube site.

The film represents an interesting view of young people's perspective including the need for skilled jobs and affordable housing.

Almost 400 responses to the MIR were received which have been broken down to approximately 1800 comments. Responses will be reported to a special meeting of the P&RS Committee on 25th September 2018 and the Proposed Plan will be reported to a special meeting of the P&RS Committee on 5th December 2018.

Major developments that have been delivered during 2017/18 on the ground are the Macallan Distillery and visitor centre, Elgin High School, affordable and private housing in Forres and Elgin. Work continues at Blackhillock on the sub-station and underground cable work supporting the offshore windfarms. Ensuring that all planning conditions are discharged continues to take up significant staff resources especially on the major schemes.



Blackhillock



High School, Elgin

The Conservation Area Regeneration Scheme (CARS) in Elgin has now come to a close after 5 years and over the last 12 months there has been a significant amount of stone cleaning that has taken place within Elgin town centre. In addition this work links with the regeneration of Elgin town centre and supporting businesses outlined in case study 4.

CASE STUDY 4

Elgin Town Centre Regeneration

Location and Dates: - Elgin Town Centre, 2013- 2018

Elements of a High Quality Planning Service this study relates to: Quality of outcomes and Quality of Service and Engagement

Key Markers: 3 and 12

Key Areas of Work: Conservation, Town Centres, Planning Applications, Interdisciplinary Working and Collaborative Working

Stakeholders Involved: Elgin BID, Local Developers, Authority Planning Staff, Authority Other Staff

Overview: Elgin town centre has benefited from £3.3million Conservation Area Regeneration Scheme (CARS). The project was part of the wider Castle to Cathmere partnership initiative to enhance the visitor experience, provide greater access to local heritage, improve economic opportunities, conserve and enhance the built, historical, cultural and social environment.

Goals: The town centre landscape is far from stable in the current economic climate. Despite the financial boost given to the historic fabric of the town centre there are still a number of vacant properties. Efforts have now turned to addressing occupancy levels by assisting new businesses through the planning system. In conjunction with Elgin BID initiative, Moray Council Planning Department has proactively engaged with the business community to facilitate meetings with all relevant consultees - Building Standards, Environmental Health, Licensing, Historic Environment Scotland etc. when new business uses are proposed within the town centre. The idea is to offer guidance and advice to ensure businesses are



aware of the full suite of consents that will be required as well as the requirements from consultees to minimise delays further down the line.

Outcomes: As Planning Authority we have also developed Planning Briefs for key vacant buildings to guide potential developers and unlock some of the obstacles that may be preventing new uses. As a result Moray Council has been invited to be involved with Historic Environment Scotland in a pilot scheme focusing on buildings and risk within Moray. The successful model has now been rolled out to other town centres within Moray and the collaborative approach is a key to securing the economic prosperity of the region.

Key Officer

Craig Wilson, Planning Officer
(Listed buildings & Conservation Areas)
Email craig.wilson@moray.gov.uk

Gill Neill, Elgin BID
gill.neill@elginbid.co.uk



1.2 QUALITY OF SERVICE AND ENGAGEMENT

Feedback forms were used for the first time at Main Issues Report engagement events and these provided very useful feedback in response to a number of questions including how people heard about the event, which helps with future marketing and publicity. Responses also highlighted good service provided by planning officers with 71% strongly agreeing that Council staff manning the exhibitions were helpful and able to answer questions. In terms of better use of technology, 48% of responses strongly agreed that the use of interactive technologies and short films enhanced the exhibitions.

CASE STUDY 5

Better use of technology in Planning exhibitions

Elements of a High Quality Planning Service this study relates to:

Quality of service and engagement
Culture of continuous improvement

Key Markers: 6

Continuous improvements

Key Areas of work

Community Engagement
Process Improvement

Stakeholders involved: Community groups, young people, general public, Council staff and elected members

Overview: Planning officers were keen to make better use of technology for drop in exhibitions for Main Issues Report stage of preparing the Moray Local Development Plan 2020.

Goals: Make greater use of technology in drop in exhibitions and improve engagement with community planning partners.

Outcomes: Planners worked with the Council's GIS officer and ICT officers to introduce 6 touch screens with interactive mapping showing all of the sites and options within the proposed Main Issues Report. The mapping allowed members of the public to scroll across Moray and zoom in/out for detailed site information. The screens also allowed people to access detailed site checklists with further site based information. Feedback at the exhibitions was excellent for the touch screens, which have been made available for corporate use for other consultations.

Planning officers also scripted a series of short films which feature staff from Community Planning partners including Scottish Natural Heritage, Highlands and Islands Enterprise, Forestry Commission Scotland and elected members who all provide short interviews to explain some of the main land use planning issues/ pressures. The films were edited by a pupil from Elgin Academy as work experience.

The touch screens and short films helped support a desire to do our exhibitions differently and supported by other exhibition materials aimed to better explain what the main land use planning issues in Moray are and very importantly, the influence and benefits the planning system has on everyone's lives.

Name of key officers

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

Kevin Belton GIS/CAG officer,
kevin.belton@moray.gov.uk



A significant amount of Supplementary Guidance has been adopted over the last year but the most significant has been that of Developer Obligations which has given greater clarity to the development process and has ensured that major planning applications are delivered and not stalled in the system. This contributes significantly to the delivery of housing and jobs within Moray and has been supported by the continued meeting of the Infrastructure Delivery Group.

CASE STUDY 6

Developer Obligations

Location and Date: Moray Local Development Plan area- ongoing service

Elements of a High Quality Planning Service this study relates to:

Quality of outcomes

Quality of service and engagement

Governance

Culture of continuous improvement

Key Markers: 3, 4, 6, 11, 12 and 15

Driving improved performance, Legal Agreements, Continuous improvements, Production of regular and proportionate policy advice, Corporate working across services to improve outputs, and services for customer benefit, Sharing good practice, skills and knowledge between authorities, Developer Obligations

Key Areas of work: Local Development Plan and Supplementary Guidance, Development Management Processes, Interdisciplinary working, Performance Monitoring, Process Improvement

Stakeholders involved: Developers and agents. Officers from development management, development plans, education, transport and NHS Grampian.

Overview: The Developer Obligations service was taken in-house on 1st March 2017 having previously been provided by Aberdeenshire Council through a Service Level Agreement (SLA). A Developer Obligations officer post was created within the



Development Planning and Facilitation team and the function taken in house to re-inforce the need for a robust, consistent and transparent approach.

Goals: To provide a consistent and timeous in house developer obligations process and support the Scottish Planning system aspirations for an infrastructure first approach to be taken by planning authorities.

Outcomes: Developer Obligations officer has now been in post for over a year. From 1st March 2017 to 1st March 2018 the Developer Obligations Officer was consulted on 334 planning applications from which 76 contributed towards infrastructure requirements. Since 1st March 2017 the Council has received £195,730.97 towards Developer Obligations across Moray and secured £6,274,065.76 via legal agreements. The supplementary guidance has been kept up to date, which is prepared by the Senior Planning Officer and Developer Obligations Officer.

The increasing management PI's demonstrate the efficiency of the service since taken in house. In terms of consultations on local applications in Q1 of 2017/18, 85% of the consultations were responded to within 15 days and this has increased to 99% by Q3 of 2017/18. From the 8 major applications that the Developer Obligations Officer was consulted on, 7 were responded to within the target 4 month timescale. The Local Development Plan 2020, which is currently under preparation, aims to take an infrastructure first approach and accordingly identifies infrastructure and services as a primary policy, highlighting the

importance of well-planned and co-ordinated infrastructure. The Developer Obligations Officer was instrumental in setting up and supporting the Infrastructure Delivery Group which has now become the Local Development Plan Delivery Group.

Name of key officers

Hilda Puskas, Developer Obligations Officer,
hilda.puskas@moray.gov.uk

Eily Webster, Senior Planning Officer,
eily.webster@moray.gov.uk

CASE STUDY 7

Youth engagement



Case Study Title: Youth Engagement in Preparation of Main Issues Report (MIR) for Moray Local Development Plan 2020 (LDP2020)

Location and Dates: Moray-wide, April 17-March 18

Elements of High Quality Planning Service this study relates to:

Quality of outcomes
Quality of service and engagement
Culture of continuous improvement

Key Markers: 6 and 10

Continuous improvements, Cross sector stakeholders, engaged in development plan preparation.

Key Areas of Work

Design, Conservation, Regeneration, Environment, Greenspace, Town Centres, Masterplanning, Local Development Plan & Supplementary Guidance, Affordable Housing, Economic Development, Collaborative Working, Community Engagement, Placemaking, Place Standard, Online Systems, Transport, Active Travel

Stakeholders Involved

Hard to reach groups

Authority Planning Staff

Authority Other Staff (Education and Community Support Unit)

Overview:

The Development Plans team has undertaken significant work to engage young people in the preparation of the Moray Local Development Plan 2020 (LDP2020). Youth engagement is identified as a key area for improvement in the Communications Plan for the LDP2020 as young people have generally been under-represented in previous planning consultations. A variety of mechanisms have been employed to engage young people as outlined below:

Short Film Competition: Prior to the preparation of the Main Issues Report (MIR) for the LDP2020, all secondary schools were invited to produce a short film setting out the main issues relevant to planning that young people in Moray are likely to experience over the next 10-20 years. Buckie High School produced a short film of very high quality which illustrated the main issues for young people, particularly regarding affordable housing, very well. The film allowed the views of young people to be heard at public exhibitions held during the MIR consultation and to a wider audience via social media. This has provided another perspective to the general public on the main planning issues for Moray. The film also helped to attract family and friends of secondary school pupils to the drop-in exhibition held in Buckie.

Place Standard: A series of Place Standard exercises has been undertaken with a number of year groups and pupil forums in secondary schools throughout Moray as well as Moray College UHI. The views gathered are being used to inform the policies and design concepts for the Proposed Plan.

MIR Short Films: Planning officers scripted 5 short films and undertook some filming including a series of short interviews with Elected Members, Community Planning Partners and stakeholders. The films were edited and produced by a pupil of Elgin Academy who added extensive drone footage and background music, as part of working towards their Duke of Edinburgh Award. The short films have been an excellent means of conveying the main planning issues at public exhibitions and to the wider public via social media, and have generally resulted in more positive feedback during the MIR consultation.



Interactive Mapping: Interactive mapping through touch-screen technology has been used at a series of public 'drop-in' exhibitions as a means to engage with a wider audience, and appeal to younger people. The touch screen technology has provided the ability to zoom in and pan around and together with the short films has provided a much greater understanding of the strategic issues for Moray. The touch screen technology has been an overwhelming success at exhibitions and resulted in many positive comments through the consultation.

Goals: The national review of the planning system in Scotland recognises and supports the importance of involving children and young people in planning. Moray's Community Planning Partnership Plan, Moray 2026: A Plan for the Future and Local Outcome Improvement Plan (LOIP) aim to ensure that the needs and aspirations of communities are properly reflected through better engagement activities. Ensuring

Moray has ambitious and confident young people is a priority of the Community Planning Board (CPB). Taking into account these aspirations and following a process review of the Moray Local Development Plan 2015 (LDP2015), the Communications Plan for the LDP2020 identifies youth engagement as a key area for improvement as young people have generally been under-represented in previous planning consultations creating imbalanced views on important issues such as affordable housing, job opportunities and placemaking. Engagement with young people has often presented a different perspective to those comments provided by other sectors of the community and helped to create a better understanding of the issues facing different generations, which in turn, will inform the policies and designations of the emerging LDP2020.

Outcomes: Innovative techniques and the use of modern technology have created the ability to engage with young people and capture an audience that is often 'switched off' by traditional 'paper' consultation exercises. This has led to young people developing a greater understanding of planning and how they can shape the places they live now and in the future. The Buckie High School short film allowed the views of young people to be heard by a wider audience through social media and at public exhibitions without necessitating attendance. This provided a more holistic picture of the planning issues facing Moray for different people, particularly in regard to affordable housing and placemaking, and has generally resulted in more positive, balanced feedback

to the MIR consultation. Similarly, the work undertaken with secondary schools on Place Standard has been well received with feedback from pupils being very positive appreciating the time taken to listen to their views about how their places feel and function. This has provided another stance on comments provided at public exhibitions by different generations. These views will be used to inform the emerging LDP2020 policies and designations. The short film and Place Standard work has helped raise the profile of planning as a career in schools.

Following the success of the MIR consultation, schools throughout Moray are now approaching the Development Plans team to become involved in planning with recent discussions marrying the Curriculum for Excellence for S3 Geography with planning practice. Within the local authority, the Children's and Young People Services Committee will consider a report by the Development Plans team on the successful approach to engaging young people, and invite further discussion to involve more schools together with continuing to work with Education Services to investigate further innovative ways to engage primary and secondary school pupils and introduce planning exercises through the Curriculum of Excellence. At a regional level, Moray's experience has been shared with authorities through the North of Scotland Development Plans Forum.

Name of Key Officer:

Eily Webster, Senior Planning Officer

Email: eilywebster@moray.gov.uk



During 2017/18 we issued 166 pre-application information packs for local developments and 3 for major developments all of which assists with front loading planning applications. Since November 2018 charges have been introduced for preliminary enquiries and development enquiries. This has reduced the number of enquiries that have been submitted but has enabled resources to be re-focused on determining planning applications and being able to spend valuable time on negotiating positive outcomes rather than on applications being withdrawn. The web site offers guidance on how to go through the pre-application process and promoted the use of processing agreements as a project management tool for giving developers the certainty that they need for large projects.

This year engagement with local developers has had a specific focus on the process of validation. Following on from the work that was carried out by Heads of Planning and the production of the National Standards for the Validation and Determination of Planning Applications and Other Related Consents a report was presented to the Planning & Regulatory Services Committee promoting this document as best practice recommends that the internal processes be more robust and holding a workshop for local agents.

CASE STUDY 8

Validation of Planning Applications – Part 1

Location & dates: The Moray Council Elgin, 5 December 2017 and 22 January 2018

Elements of a High Quality Planning Service:
Quality of Service & Engagement, Governance

Key Markers: 1, 3 and 12

Key Areas of Work: Development Management Processes, Planning Applications, Process Improvement, Interdisciplinary Working

Stakeholders Involved: General Public, Local Developers, Planning Committee, Authority Planning Staff, Authority Other Staff

Overview: The first part of the process was to sit down with the main consultees that had been identified to seek further information when consulted and this included details relating to private water, surface water drainage and flooding, car parking/access and tree surveys. Once the information that was required was pulled together into a supporting checklist and consultees were on board this was reported to the Planning & Regulatory Services committee. A workshop was then arranged with local agents and was well attended by Development Management and Development Plan Officers along with Officers from Transportation, Environmental Health and Flood Risk Management. Following a brief presentation the workshop time was spent in small groups discussing each individual topic and giving both consultees and agents face to face time to raise areas of concerns and how best to present supporting information.

Goals: The promotion of the Heads of Planning guidance document as best practice amongst local developers was the starting point to engage local developers and agents who regularly submit planning applications to gain a better understanding of the validation process and how it impacts on the

determination of planning applications.

The main objective was to improve the quality of submissions, increase the rate of validation on first submission but more importantly ensure that the information that accompanies the applications are fit for purpose and meet the needs of all consultees. By achieving this in turn results it reduces requests for further information, imposition the number of suspensive planning conditions required and quicker and more informed planning decisions.

Our supporting information checklist has also been updated and includes more detail on what is required to accompany a planning application which is now linked to the relevant policies in the Local Development Plan and associated supplementary guidance.

[National Standards for the Validation Committee Report](#)

[Moray Council Supporting Information Checklist](#)

Outcomes: The validation process is an area of work which can take up significant resources and monitoring is taking place as to whether or not the workshop and supporting information checklist have made a difference. The feedback from the workshop was positive and requests have been made for a follow up session where other topic areas can be discussed in detailed in the same way. In Moray many of our applications are submitted by the same agents so by working together with them and internal colleagues the quality of submissions that are submitted can be improved. This reduces the requests for additional information which causes delays and enables is to make better use of our resources.

Name of key officer:

Beverly Smith,
Manager Development Management
Email: beverly.smith@moray.gov.uk

1.3 GOVERNANCE

The Planning & Regulatory Service Committee meet every two months and the Local Review Board meet every six weeks. Any special meetings that are required for both Development Planning and Development Management purposes are arranged to ensure that developer's timescales and delivery of other projects can be accommodated. All our committee meetings are available to be viewed by web cam. In 2017/18 there were two special meetings. In terms of the delegation scheme 97.4% of applications were determined, of which 94.7% were approved very similar to previous years. The scheme will be reviewed towards the end of 2018 and has been fit for purposes since it was adopted in 2014 allowing the Planning & Regulatory Services Committee to focus on strategic issues and the more significant applications that fall within the national and major category.

The Development Management structure has been the subject of review in 2017/18 and a Senior Planning Officer post has been created to undertake direct supervision of the two part-time Planning Assistants as well as focusing on more major planning application work. This has allowed the Principal Planning Officers to concentrate and deliver more major planning applications and meet statutory timescales. In addition a Condition Monitoring Officer position was created replacing the part-time Planning Enforcement Assistant. This post sits alongside the Planning Enforcement Officer and has enabled the Council to be more proactive and robust in ensuring that development is delivered on the ground in accordance with the approved drawings and ensuring planning conditions that are imposed are discharged and ultimately enforced where the need arises.

In terms of average performance during 2017/18 we have maintained and improved our average timescales across all development types. What is also important is ensuring that decision-making continues to ensure

that planning applications are not held up in the system. We have one legacy case in the system and this is due to be reported to committee in September and is the subject of a processing agreement. The reason for the delay is due to the extensive issues of surface water flooding that remain unresolved. In terms of ensuring planning decisions are issued timeously with S.75 legal agreements our target is six months from the date of the committee. Over the last 12 months none of the planning applications have needed to be reported back to committee as all of the legal agreements have progressed and any delays have been resolved by our legal services section. Delivering development on the ground as approved is important to making sure our local outcomes are delivered as many schemes often lack the ability to deliver and opportunity sites can be the ones that are the most difficult to be implemented on the ground.

CASE STUDY 9

Delivering development as approved

Location and Dates : The Moray Council, December 2017 and 27 February 2018

Elements of a High Quality Planning Service this study relates to includes: Governance and Quality of Outcomes

Key Markers: 5 and 12

Key Areas of Work: Enforcement, Development Management processes, Interdisciplinary Working and Planning Applications

Stakeholders Involved: Planning Committee, Authority Planning Staff, Authority Other Staff, Local developers

Overview: A review of the Planning Enforcement Assistant post was undertaken and following recruitment a Condition Compliance Officer was appointed. A significant number of planning conditions that are imposed on decision notices relate to those recommended by our transportation section and have highway safety implications. The closer working together in terms of monitoring, discharging and ensuring these conditions are complied with are paramount to a proposal being delivered on the ground and ensuring our resources are better utilised. Developers and local agents have an important role to play in this process and are starting to appreciate that as resources have been dedicated to this area of implementation in the long term it is hoped that less negotiation and enforcement will be necessary as we work alongside each other to deliver the highest standard of development.

1.4 CULTURE OF CONTINUOUS IMPROVEMENT

Goals: Developments that are approved are the subject of extensive negotiation and ensuring that the development delivers the wider outcomes of the Development Plan will not happen without the planning conditions that are imposed being complied with timeously.

Committee Report Enforcement

Outcomes: This case study demonstrates that by re-organising roles and working in close partnership with colleagues in transportation and other sections that duplication of workload can be minimised. The monitoring and discharging of planning conditions is crucial to the delivery of high quality development on the ground and ensuring that sufficient resources are dedicated to compliance is a fundamental key part of Development Management. Working more closely with other sections of the Council including Environmental Health and the Flood Risk Management Team will follow.

Name of Key Officer:

Beverly Smith, Manager
Development Management
Email: beverly.smith@moray.gov.uk

A joint training day was held on 15th December 2017 between Development Management and Development Plans, exploring and testing two key draft policies being developed for inclusion in the new Local Development Plan, on Placemaking and Rural Housing, where the aspiration is to achieve significant improvements in design. Officers split into workshop groups and assessed a number of designs and then fed back on which aspects of the policy worked and which didn't, which has been useful to inform the final version of the policies.

Officers in Development Plans are encouraged to be creative and innovative, exploring new ways of working.

In addition to the above, the Council is supporting a planning officer trainee through Open University modules to then undertake MSc Urban and Rural Planning. The Developer Obligations officer has also been supported in undertaking distance learning modules to study towards MSc Urban and Rural Planning.

The planning service has continued over the last 12 months to embed a culture of continuous improvement into its delivery of the service. The service plan is updated annually and as a document is a record of proposed service improvements for 2018/19 and really focuses in on those changes that are required by legislation, the introduction of new technology and customer demand.

As part of the benchmarking exercise Moray was partnered with Aberdeenshire Council in 2017 and experiences of aligning Planning and Roads Construction Consent have been shared. This has aided a review of internal processes to move the two separate consenting regimes closer together to improved certainty and reduce conflict at implementation stages.

CASE STUDY 10

Aligning Planning & Roads Construction Consent – Part 1

Location and Dates: The Moray Council - 19 January, 7 & 21 February, 21 March & 19 June 2018

Elements of a High Quality Planning Service this study relates to: Culture of Continuous Improvement, Quality of Outcomes, and Quality of Service and engagement

Key Markers: 12 and 13

Key Areas of Work: Development Management Processes, Planning Applications, Interdisciplinary Working, Collaborative Working, Placemaking, Skills Sharing, Staff Training, Transport

Stakeholders Involved: Local Developers, Planning Committee, Authority Planning Staff, Authority Other Staff (Traffic & Transportation), Flood Risk Management Officers

Overview: Process mapping meetings have been held along with a workshop session and a follow up session attended by Aberdeenshire's Transport Manager. Further meetings were held with internal departments including representatives from Transportation, Flood Risk Management and Development Plan Officers.

Goals: A better understanding as to how planning and Roads Construction Consent processes can be aligned, identify the current weaknesses and flaws of the process and to identify how these can be overcome. See link to committee report and Appendices below:
[Committee Report Aligning Planning & RCC](#)
[Appendix 1 Aligning Planning & RCC](#)
[Appendix 2 Material Policy Considerations](#)

Outcomes: The process so far has enabled internal procedures to be reviewed, experiences from Aberdeenshire Council to be shared, revised process and procedures being proposed to the Planning & Regulatory Services Committee and being subject of consultation with developers. Following consultation a further report will be put back to committee, procedures revised, training undertaken and a pilot project being identified to be put through the full process.

Name of Key Officer:

Beverly Smith,
Manager Development Management
Email: beverly.smith@moray.gov.uk

The Employee Review Development programme plays an important part in identifying training opportunities and service improvements through the holding of individual review meetings. Training has been held on a range of topics including Housing in the Countryside, Retail Assessment, Developer Obligations and S.75 legal agreements. Shared training events have been held with by Highland and Aberdeenshire Council in 2017/18 and this is something that will continue into future years.

The Moray Council has continued over the last 12 months to arrange regular leadership forum meetings attended by the Chief Executive, Directors, Heads of Service and third tier managers and provides an opportunity to network and focus on common themes that cut across the Council.

In 2017/18 Officers from the Planning service attended the following training/CPD events:

- Trevor Roberts Permitted Development Rights Course (hosted and organised by Highland Council)
- Aberdeenshire Development Management Training Day (Hosted by Aberdeenshire Council)
- In house S.75 legal training update
- Development Plan training – Housing in the Countryside guidance
- Aligning RCC & Planning Shared experiences – Aberdeenshire Council
- RTPI Event – hosted by Moray Council
- Member induction & Planning Training
- SEPA Liaison meeting

- Data Protection On line training
- Retail Impact/Viability Training
- Leadership Forum – Moray Council
- Procurement Training
- Viability Training, Inverness, organised by MC Developer Obligations team for planners from the north of Scotland.
- Stimulating Housing Development in the Highlands and Islands, Inverness
- HOPS conference Chapelton of Elsie
- Facilitation skills
- Interview skills
- SPEED
- Retail Planning
- Greenspace mapping, Greenspace infrastructure
- Presentation Skills
- Place standard events and training
- Green networks SNH

Officers also attended the following forums to share good practice:

- North of Scotland Development Plans Forum
- Heads of Planning Executive Committee
- Heads of Planning Development Plans Sub-committee
- Heads of Planning Development Management Sub-committee
- Heads of Planning Enforcement Forum
- Heads of Planning Energy Sub-Committee
- Digital Planning Taskforce
- Developer Obligations Forum



PART 2

Supporting Evidence

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

- Development Services Service Plan
- A range of committee reports
- Case Studies
- Informal benchmarking
- Partnership working
- Moray Local Development Plan Scheme January 2018
- Housing Land Audit and Employment Land Audits 2017

Case Study Topics	Issue covered in PPF7	Case Study Topics	Issue covered in PPF7
Design	X	Interdisciplinary Working	X
Conservation	X	Collaborative Working	X
Regeneration	X	Community Engagement	X
Environment	X	Place making	X
Greenspace	X	Charrettes	
Town Centres	X	Place Standard	X
Master planning	X	Performance Monitoring	X
LDP & Supplementary Guidance	X	Process Improvement	X
Housing Supply	X	Project Management	X
Affordable Housing		Skills Sharing	X
Economic Development	X	Staff Training	X
Enforcement	X	Online Systems	
Development Management Processes	X	Transport	X
Planning Applications	X	Active Travel	
Other: please note			

To assist with the 15 key performance markers relevant hyperlinks have been added in below under the four sub-headings when combined together define and measure a high-quality planning service:

QUALITY OF OUTCOMES

Making a Planning Application – What Information is Required?

Supporting Information Checklist

Heads of Planning Scotland Guidance Note on National Standards for Validation and determination of planning applications and other related consents

Developer Obligations Supplementary Guidance – approved March 2018

Moray Onshore Wind Energy Supplementary Guidance – approved November 2017

Open Space Strategy – January 2018

Dallas Dhu Masterplan – May 2018

Draft Development Briefs – approved May 2018

Committee Reports Development Briefs

Guidance Note on Landscape and Visual Impacts of Cumulative Build-up of Houses in the Countryside – Approved August 2017

Planning & Architecture Scottish Awards for Quality in Planning 2018

QUALITY OF SERVICE & ENGAGEMENT

Moray Local Development Plan Scheme – February 2018

Housing Land Audit and Employment Land Audit - May 2018

Making a Preliminary Enquiry – local developments guidance and form

Major Developments Pre-application Advice

Planning Enforcement Complaint Form

Processing Agreements

Moray Council Complaints

Planning Enforcement Charter Committee report

Planning Enforcement Charter

Customer Care

Development Management Service Charter

GOVERNANCE

The Moray Council Corporate Plan 2023

Scheme of Delegation:

Committee Diary:

CULTURE OF CONTINUOUS IMPROVEMENT

Development Services Service Plan 2016-2018

Service Plan Committee Report

Planning Performance Framework 2016/17

Planning Performance Framework Feedback

Performance Markers Report 2017/18

No.	PERFORMANCE MARKER	EVIDENCE/COMMENTS
DRIVING IMPROVED PERFORMANCE		
1.	Decision-making Authorities demonstrating continuous evidence of reducing average timescales for all development types	<p>See National Headline Indicators in the PPF.</p> <p>All average timescales sit below the Scottish average and there has been continued improvements in reducing average timescales in all development types.</p> <p>Major Applications 16.5 weeks. Local Non Householder Applications 6.6 weeks. Householder Applications 5.3 weeks</p>
2.	Project management: Offer of processing agreements (or other agreed project plan) made to prospective applicants in advance of all major applications and availability publicised on planning authority website	<p>Preparation and delivery of the Local Development Plan is managed by the PPO in Development Plans. The Development Plan Scheme sets out the key milestones for the various stages of the Plan and the Development Plans team meet fortnightly to progress the Plan, supported by the Infrastructure Delivery Group/ LDP Delivery Group and a series of sub-groups on progressing various aspects of the Plan including policies, communications, settlement statements, whole plan viability and delivery.</p> <p>Regular progress updates are provided to the Head of Service and Director. Regular meetings and updates are held with internal services and key stakeholder events organised at key stages.</p> <p>Processing agreements offered in advance to all applicants submitting major planning applications and are publicised on the web site. Specific PPA template and guidance on the website under Pre-Application advice. Numbers of agreements being entered into have increased.</p>
3.	Early collaboration with applicants and consultees on planning applications: <ul style="list-style-type: none"> • Availability and promotion of pre-application discussion for all prospective applications; and • Clear and proportionate requests for supporting information 	<p>Pre-application advice is recorded in Uniform and the figures show that 17% of applications were subject to pre-application advice. Major Pre-application advice offered, link on the web site to form, guidance and calendar of meeting dates. Pre-application advice for local development is provided in a template form similar to major applications which has provided a more consistent level of advice. Regular engagement with developers has been established before the pre-application stage, with a specific emphasis upon promoting the Council's new Primary Policy on Placemaking, which supports Creating Places and Designing Streets. Case study to demonstrate how pre-application advice is clear and proportionate requests for supporting information.</p>

No.	PERFORMANCE MARKER	EVIDENCE/COMMENTS
4.	Legal Agreements: Conclude (or reconsider) applications within 6 months of 'resolving to grant'	National Headline Indicators. Improvements in timescales for applications subject to a legal agreement and targets for them to be within 4 months from date instructions issued to legal. Targets agreed by Committee and are monitored. No cases report back to committee as all have progressed and been issued.
5.	Enforcement Charter updated/re-published	Link to website to revised published Enforcement Charter. Enforcement Charter reviewed in March 2018 and approved by the Scottish Government.
6.	Continuous Improvement: Show progress/improvement in relation to PPF National Headline Indicators; Progress ambitious and relevant service improvement commitments identified through PPF report	Improvements have been made to average timescales for all development types. Number of processing agreements is increasing. Service improvements progress has been detailed in the PPF - see report Section on service improvements.
PROMOTING THE PLAN-LED SYSTEM		
7.	Local development plan • Less than 5 years since adoption	Less than 5 year since adoption- The Local Development Plan was adopted on 31st July 2015 and is less than 5 years old.
8.	Development Plan Scheme Demonstrates next LDP on course for adoption within 5 year cycle; project planned and expected to be delivered to planned timescale	The Development Plan Scheme 2017 was approved on 27th February 2018. The DPS identifies the key milestones for the preparation of the LDP2020. This has included extensive early engagement with elected members and communities, consultation on the Main Issues Report which met the target of approval in December 2017 and is on track. The date for reporting the Proposed Plan in December 2018 allows for consideration of the preferred route option of the A96 dualling project. The Housing Need and Demand Assessment achieved robust and credible status in April 2018. The Local Development Plan preparation is project managed by the PPO Development Plans, with fortnightly project meetings, supported by the Infrastructure/ Local Development Plan Delivery Group and a series of sub-groups on Delivery Programme, Whole Plan viability, Policies, SEA/Natura and Communications/ Engagement. Deadlines are set for each stage and element of the Plan process and the fortnightly meetings gauge progress towards meeting the deadlines.

No. PERFORMANCE MARKER	EVIDENCE/COMMENTS
	<p>Updates on progress and reported to the Head of Service, Director of Economic Development, Planning and Infrastructure and progress is monitored through Service Plan updates which are reported to the Planning and Regulatory Services Committee.</p>
<p>9. Elected members engaged early (pre-MIR) in development plan preparation</p>	<p>A training session was held on planning policy issues as part of Members induction on the 15th and 18th May 2017 following the local government elections.</p> <p>An event to explain and discuss the Main Issues Report was held for all members on 26th September 2017 to inform the Main Issues Report which was presented to Planning and Regulatory Services Committee in December 2017. Prior to the Committee considering the Main Issue Report, further ward level briefings were held in late October/ early November 2017.</p> <p>An event trialling the consultation materials for the Main Issues Report was held in January 2018 for Moray Council staff and elected members.</p> <p>A series of 1-2-1 training sessions have been held with the chairs and vice chairs of the Planning and Regulatory Services Committee to discuss main land use planning issues and the proposed solutions as well as the Local development Plan process and the changes emerging through the national review of the planning system.</p>
<p>10. Cross sector stakeholders, including industry Agencies & Scottish Government, engaged Early (pre-MIR) in development plan preparation</p>	<p>Stakeholders have been engaged throughout the Local Development Plan process, a series of meetings were held on a 1-2-1 basis prior to the Main Issues Report being published and stakeholders were heavily involved in preparing the evidence base, inputting to a series of Topic papers and also featuring in some of the short films used for the consultation.</p> <p>Stakeholders have also attended two Local development Plan workshops where the main land use planning issues and evidence base have been discussed and this has also formed part of the pilot Gatecheck process. Community Planning Partners have been engaged through presentations given to both the Community Planning Partnership and Community Engagement Group. A special consultation event was held for the Joint Community Councils where presentations were given by the Development Management Manager and Development Plans Principal Planning Officer.</p>

No. PERFORMANCE MARKER	EVIDENCE/COMMENTS
	<p>Officers from planning and housing have attended several Homes for Scotland north regional meetings to discuss aspects of the new Local Development Plan, including the Housing Need and Demand Assessment.</p>
<p>11. Production of regular and proportionate policy, advice, for example through supplementary guidance, on information required to support applications</p>	<p><u>Supplementary Guidance on Developer Obligations was updated and approved on March 2018</u></p> <p><u>Development briefs were approved in August 2017</u></p> <p><u>Dallas Dhu Masterplan was approved in May 2018.</u></p> <p><u>Draft Bilbohall Masterplan</u></p> <p><u>Onshore wind 1st November 2017</u></p> <p><u>Open Space Strategy</u></p> <p><u>Moray Woodland and Forestry</u></p>
SIMPLIFYING AND STREAMLINING	
<p>12. Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined up services; single contact; joint pre-application advice)</p>	<p>The Infrastructure Delivery Group has been combined with the Local Development Plan Delivery Group and has representation from Transportation, Education, Planning, NHS Grampian, Scottish Water and Transport Scotland. Planning officers work closely with other services and community planning partners to align future infrastructure requirements with projected development, including assisting with future school estate.</p> <p>The developer obligations function is carried out within Development Plans and ensures a robust evidence base is kept up to date requires significant corporate working.</p> <p>Protocols on joint working with Cairngorm National Park. Joined up pre-application advice process and meetings pre-booked in advance.</p>

No.	PERFORMANCE MARKER	EVIDENCE/COMMENTS
13.	Sharing good practice, skills and knowledge between authorities	<p>Attendance at HOPS Development Plans sub Committee, active participation and chairing of meetings on a rotational basis of the North of Scotland Development Plans Forum, participation as a pilot exercise for the Planning (Scotland) Bill on the proposed Gatecheck process and sharing the experience with various local authorities.</p> <p>Attended national NHS asset management group with NHS colleague to present on good practice between Moray Council and NHS Grampian.</p> <p>The Developer Obligations officer attends national Developer Obligations Forum meetings.</p> <p>Benchmarking meetings - SOLACE family Group 2. CNPA Liaison meetings. Attendance at HOPS Executive Committee, DM & Development Plans Sub Committee.</p> <p>Active participation and chairing of meetings on a rotational basis of the North of Scotland Development Plans Forum & HOPS representative on SPSO Working Group. Shared training Events.</p>
DELIVERING DEVELOPMENT		
14.	Stalled Sites/legacy cases: Conclusion/withdrawal of planning applications more than one year old	One new legacy case over 12 months in the system subject to a processing agreement stalled in system due to need for extra information but to be determined at the next available committee.
15.	Developer Contributions: Clear expectations set out in development plan (and/or emerging plan) and in pre-application discussions	<p>Clear expectations set out in development plan and in pre-application discussions.</p> <p>Supplementary Guidance on Developer Obligations was adopted in September 2016 and an updated version adopted in March 2018.</p> <p>Adopted Supplementary Guidance and pre-application advice is available through pre-arranged meetings attended by the Planning Obligation Officer and information is available on the website.</p>

PART 3

Service Improvements 2018/19

Service Improvements in the coming year:

- Implement revised procedures for aligning Planning and RCC consents in relation to street design
- Ensure GDPR Regulations have been fully implemented
- Implement Enterprise in Uniform and review associated procedures
- Review standard Validation Guidance & hold a update workshop for agents
- Review Condition Monitoring procedures
- Hold a workshop with SNH and SEPA on condition monitoring and focus on environmental construction management plans.
- Review our desk duty service
- Participate in a pilot project with Historic Environment Scotland and the Buildings at Risk register
- Review the web site and content
- Report the Proposed Plan to Committee in December 2018
- Move towards a place based Plan in terms of presentational techniques in the Proposed Plan and other guidance
- Adopt and operate Quality Audit 2, incorporating Mood, Mobility and Place findings
- Move towards closer alignment between spatial planning and the Local Outcome Improvement Plan
- Further test and refine draft policies prior to inclusion in the Proposed Plan
- Consult on candidate Special landscape Areas
- Closer alignment between the LDP and Town Centre improvements
- Closer alignment between the LDP and Moray Economic Strategy
- Develop a longer term programme for youth engagement
- Develop a longer term programme for use of the Place Standard in Moray

Delivery of our service improvement actions in 2017-18:

Looking back at the Service Improvements we identified for 2017/18 we are proud of the progress made against the vast majority of these:

Commitment: Review Preliminary Enquiry process for Major planning applications.

Progress: Completed - and charges introduced.

Commitment: Review Project Management Approach to Major Planning Applications & Integration of Other Consents.

Progress: Completed - Ongoing and reported to committee in June 2018.

Commitment: Set up sub-group on Engagement and ICT requirements for next Local Development Plan.

Progress: Completed.

Commitment: Continue to review Development Management procedures since eplanning (on going review).

Progress: Completed and replaced by implementation of Enterprise.

Commitment: Implement EIAS Regulations 2017 with standard templates.

Progress: Completed.

Commitment: Review, update and adopt the Developer Obligations Guidance, final draft to be reported to Committee in December 2017.

Progress: Completed.

Commitment: Finalise and adopt guidance on Open Space, report to Committee in August 2017.

Progress: Completed.

Commitment: Revise the Quality Audit process to reflect learning since its introduction 18 months ago.

Progress: To be completed by December 2018.

Commitment- Review, update and adopt the Developer Obligations Guidance, final draft to be reported in December 2017.

Progress- Completed. Final draft was reported to Committee in December 2017 then sent to the Scottish Government and adopted in March 2018.

Commitment Report the Main Issues Report to Committee in December 2017.

Progress- Main Issues Report was reported to Committee in December 2017 and then subject to extensive engagement.

Commitment Finalise and adopt guidance on Open Space, report to Committee August 2017.

Progress- Complete. The Open Space Strategy was adopted in January 2018.

Commitment Carry out a pilot Gatecheck and report back to the Scottish Government by end 2017.

Progress- Complete. Officers have worked with Scottish Government and DPEA to pilot the Gatecheck process and presented to the National Development Plans Forum in May on this subject.

Commitment Develop proposals for engaging with a new audience by the end of 2017 to inform Main Issues Report consultation during January- March 2018.

Progress- Complete. Officers develop a new approach to consultations, involving a programme of youth engagement (see case study) and better use of technology in exhibitions, principally through use of touch screens and short films (see case study).

Commitment Revise the Quality Audit process to reflect learning since its introduction 18 months ago.

Progress- The Quality Audit has been revised and is currently being tested alongside the draft policies for the Moray Local Development Plan 2020. It is proposed to introduce the new Quality Audit in December 2018.

PART 4

National Headline Indicators (NHI's) 2017/18

A: NHI KEY OUTCOMES - DEVELOPMENT PLANNING	2017/2018	2016/2017
LOCAL & STRATEGIC DEVELOPMENT PLANNING <ul style="list-style-type: none"> • Age of local/strategic development plan(s) (full years) at the end of the reporting year. • Will the local/strategic development plan be replaced by their 5th anniversary according to the current development plan scheme? (Y/N) • Has the expected date of submission of the plan to Scottish Ministers in the development plan scheme changed over the past Year? • Were development plan scheme engagement/consultation commitments met during the year? (Y/N) 	Three years since the MLDP 2015 was adopted Yes Yes Yes	Two years since the MLDP 2015 was adopted Yes No Yes
EFFECTIVE LAND SUPPLY AND DELIVERY OF OUTPUT <ul style="list-style-type: none"> • Established housing land supply (units) • 5-year effective housing land supply programming • 5-year effective housing land supply total capacity • 5-year effective housing supply target • 5-year effective housing land supply (to one decimal place) • Housing approvals (units) • Housing completions over the last 5 years (units) • Marketable employment land supply • Employment land take-up during reporting year (hectares) 	12,848 units 2,391 units 3,638 units 2,690 units 6.76 units 704 units 1618 units 80.72 ha 1.6 ha	13,141 units N/A N/A N/A 7.6 years 479 units 1615 units N/A 1.23 ha

B: NHI KEY OUTCOMES - DEVELOPMENT MANAGEMENT	2017/2018	2016/2017
DEVELOPMENT MANAGEMENT Project Planning <ul style="list-style-type: none"> Percentage and number of applications subject to pre-application advice Percentage and number of major applications subject to processing agreement Decision Making <ul style="list-style-type: none"> Applications approval rate Delegation rate Validation Decision Making Timescales Average number of weeks to decisions: <ul style="list-style-type: none"> Major developments Local development (non-householder) Householder developments Legacy Cases <ul style="list-style-type: none"> Number cleared during reporting period Number remaining 	17% 166 50% 1 94.7% 97.4% 67.1% 16.5 6.6 5.3 1 1	24% 165 100% 2 92.6% 97.2% 42% 16.9 6.7 5.7 1 1
C: NHI KEY OUTCOMES - ENFORCEMENT ACTIVITY	2017/2018	2016/2017
<ul style="list-style-type: none"> Time since enforcement charter published/reviewed Complaints lodged and investigated Breaches identified - no further action taken Cases Closed Notices served Direct Action Reports to Procurator Fiscal Prosecutions 	4 months 295 12 272 2 1 0 0	16 months N/A N/A 222 3 N/A 0 0

EXPLANATORY NOTES

All the average decision-making timescales are lower than 2016/17 and significant improvements have been made in determination rates for both major and householder developments. For local developments, average timescales have been reduced by 0.1 weeks and householder developments by 0.4 weeks. Major applications have an average of 16.5 weeks and are also below the national average and lower the last year. The use of processing agreements has reduced for major application, however, as we had only 2, one was covered and works out 50%.

PART 5

Official Statistics

A: Decision-making timescales (based on 'all applications' timescales 2017/18)

CATEGORY	TOTAL NUMBER OF DECISIONS 2017-18	AVERAGE TIME WEEKS 2017-18	AVERAGE TIME WEEKS 2016-17
Major Developments	6	16.5	16.9
All Local Developments	654	6.1	
Local: less than 2 months	625	5.9	
Local: more than 2 months	29	11.6	
Local Developments (non-householder)	436	6.6	
Local: less than 2 months	407	6.2	6.8
Local: more than 2 months	29	11.6	13
Householder Developments	218	5.3	
Local: Less than 2 months	218	5.3	5.7
Local: more than 2 months	0	-	-
Housing	234	6.6	
Local: less than 2 months	222	6.3	
Local: more than 2 months	12	10.7	
Business and Industry	123	6.5	
Local: less than 2 months	113	6.0	6.5
Local: more than 2 months	10	12.8	11.8
Other Developments	45	6.4	
Local: Less than 2 months	42	6.0	
Local: more than 2 months	3	12.7	
EIA developments	0	0	0
Other consents			
All Other Consents	101	6.1	6.4
Listed Buildings & Conservation Area	63	6.9	6.8
Advertisements	21	5.8	5.1
Hazardous Substances	0	-	-
Other consents and certificates	17	3.8	5.1
Planning/legal agreements**			
(major applications)	0	-	-
(local applications)	0	-	-
Local Reviews	27	12.2	12.2

B: Decision-making: Local Reviews and Appeals

TYPE	TOTAL NUMBER OF DECISIONS	ORIGINAL DECISION UPHELD			
		2017-18		2016-17	
		No	%	No	%
Local reviews	15	11	73%	10	37%
Appeals to Scottish Ministers	4	1	50%	0	100%

C: Context

In general, performance on planning application determination timescales has improved for all development categories major, local and householder in comparison to last years' figures and also compares favourably with the national average and in all instances being well below the national average.

There has been an increase in the number of processing agreements for local applications, but numbers are still relatively small when compared to the overall total number of applications determined.

PART 6

Workforce Information

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

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

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

RTPI QUALIFIED STAFF	HEADCOUNT	FTE
Development Management	10	8.4
Development Planning	6	6
Enforcement	2	2
Specialists	0	
Other (including staff not RTPI eligible)	9	8.2

STAFF AGE PROFILE	HEADCOUNT
Under 30	3
30-39	8
40-49	6
50 and over	10



CORPORATE DIRECTOR OF ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE
Rhona Gunn

HEAD OF DEVELOPMENT SERVICES
Development Management, Development Plans, Building Standards, Community Safety,
Economic Development, Environmental Health, Trading Standards and Museums
Jim Grant (HOPS)

Manager (Planning and Economic Development)
Gordon Sutherland (MRTPI) (HOPS)

Principal Planning Officer
Gary Templeton (MRTPI)

Senior Planning Officer
Eily Webster (MRTPI)

Technical Support
CAG/GIS Officer
Kevin Belton

CAG/GIS Assistant
Trevor Thornley

Planning Design Officer
Jane Clark

Planning Officer
Emma Gordon
(MRTPI)

Planning Officer
Darren
Westmacott

Planning Officer
Rowena MacDougall
(MRTPI)

Planning Officer
Keith Henderson
(MRTPI)

**Development
Obligations Officer**
Hilda Puskas

PART 7

Planning Committee Information

COMMITTEE & SITE VISITS*	NUMBER PER YEAR
Full council meetings	12
Planning committees	10
Area committees (where relevant)	Not applicable
Committee site visits	22
LRB*	8
LRB site visits	22

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







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Mr Roddy Burns
Chief Executive
Moray Council
10 January 2019

Dear Mr Burns

PLANNING PERFORMANCE FRAMEWORK FEEDBACK 2017/18

I am pleased to enclose feedback on your authority's 7th PPF Report for the period April 2017 to March 2018. Considerable progress has been made since the introduction of the Planning Performance Framework and key markers, although performance still remains variable over some authorities and markers.

As you may be aware, the Planning Bill has recently passed through the second stage of parliamentary consideration, during which the Local Government and Communities Committee voted to remove the proposed provisions on planning performance, provisions to make training for elected members mandatory, and the existing penalty clause provisions. We expect Stage 3 of the bill process to begin in the new year.

Whatever the outcome of the Planning Bill, I believe now is the time to look again at how we measure the performance of the planning system. The High Level Group on Planning Performance recently met to discuss performance measurement and other improvements. I very much hope that we can continue to support ongoing improvements in our planning service and further demonstrate the value which the planning system can add to people's lives. Ministers see an important connection between performance and fees and I am aware that any proposals to increase fees will raise applicants' expectations of an efficient and effective service.

We need to be able to measure performance to provide that crucial evidence to support any increases in fees, to help ensure that authorities are appropriately resourced to deliver on our ambitions. With this in mind, we will continue to liaise with COSLA, SOLACE and Heads of Planning Scotland on matters of the Bill's implementation and planning performance measures going forward.

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

Kind Regards

KEVIN STEWART

CC: Mr Jim Grant, Head of Development Services
St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



PERFORMANCE MARKERS REPORT 2017-18

Name of planning authority: **Moray Council**

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

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

No.	Performance Marker	RAG rating	Comments
1	Decision-making: continuous reduction of average timescales for all development categories [Q1 - Q4]	Green	<p>Major Applications Your timescales of 16.5 weeks are faster than the previous year and are faster than the Scottish average of 33.6 weeks. RAG = Green</p> <p>Local (Non-Householder) Applications Your timescales of 6.6 weeks are faster than the previous year and are faster than the Scottish average of 10.7 weeks. RAG = Green</p> <p>Householder Applications Your timescales of 5.3 weeks are faster than the previous year and are faster than the Scottish average of 7.3 weeks. RAG = Green</p> <p>Overall RAG = Green</p>
2	Processing agreements: <ul style="list-style-type: none"> offer to all prospective applicants for major development planning applications; and availability publicised on website 	Green	<p>You encourage processing agreements to applications for all major developments. There was an increase in the number of agreements being entered into. RAG = Green</p> <p>Processing agreement information is available through your website. RAG = Green</p> <p>Overall RAG = Green</p>
3	Early collaboration with applicants and consultees <ul style="list-style-type: none"> availability and promotion of pre-application discussions for all prospective applications; and clear and proportionate requests for supporting information 	Green	<p>You provide a pre-application advice service which is promoted through the website and by staff engaging with prospective applicants. RAG = Green</p> <p>Your case studies and stated processes demonstrate a commitment to keeping requests for supporting information proportionate. You recently updated your supporting information checklist following a consultation with stakeholders. RAG = Green</p> <p>Overall RAG = Green</p>
4	Legal agreements: conclude (or reconsider) applications after resolving to grant permission	Green	<p>Your average timescales for determining major and local applications with legal agreements are faster than last year and the Scottish average. You aim to resolve S75 legal</p>

	reducing number of live applications more than 6 months after resolution to grant (from last reporting period)		agreements within six months of reaching mind to grant stage by committee.
5	Enforcement charter updated / re-published within last 2 years	Green	Your enforcement charter was 4 months old at the end of the reporting year.
6	Continuous improvement: <ul style="list-style-type: none"> • progress/improvement in relation to PPF National Headline Indicators; and • progress ambitious and relevant service improvement commitments identified through PPF report 	Green	<p>Your key decision making timescales are faster than last year and your LDP and enforcement charter are both up-to-date. Your timescales, including legal agreements, are faster overall. Elsewhere, you have made progress on maintaining a low number of stalled sites.</p> <p>RAG = Green</p> <p>You have completed 12 out of 14 of your improvement commitments with the remaining to be continued over the next reporting year. You identified a range of tangible improvement commitments for the coming year informed by stakeholder feedback, although some could be considered as part of the daily business functions of the service.</p> <p>RAG = Green</p> <p>Overall RAG = Green</p>
7	Local development plan less than 5 years since adoption	Green	Your LDP was 3 years old at the end of the reporting period.
8	Development plan scheme – next LDP: <ul style="list-style-type: none"> • on course for adoption within 5 years of current plan(s) adoption; and • project planned and expected to be delivered to planned timescale 	Green	<p>Although you have noted the date for submission to have changed you state that LDP2 is on track for adoption within the five year cycle.</p> <p>RAG = Green</p> <p>Your LDP2 is managed by a fortnightly project meeting which sets deadlines for various parts of the project.</p> <p>RAG = Green</p> <p>Overall RAG = Green</p>
9	Elected members engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	Green	You engaged with elected members during this reporting year, first with training sessions and seminars then trial consultations for the pre-MIR stage as part of the preparation for the development plan.
10	Cross sector stakeholders* engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	Green	You held a series of one to one meetings and workshops with stakeholders. Community partners (including community councils) were similarly engaged through presentations.
11	Regular and proportionate policy advice produced on information required to support applications.	Green	You have produced a number of supplementary guidance documents to aid your application processes. Case studies, including one on the Dallas Dhu masterplan, clearly indicate these to be a proportionate response to customer's needs.
12	Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)	Green	You provide evidence of building internal partnerships, more efficient processes for service delivery and improving protocols for joined up pre-application advice with Cairngorm National Park. All of which demonstrate you are working to improve services for stakeholders.
13	Sharing good practice, skills and knowledge between authorities	Green	You have worked with Cairngorm National Park in the proposed Gatecheck process, which aims to secure more certainty of a development plan's viability early on in the process. Should this go ahead in the Bill, future reports

			should clarify how you have shared this experience with other local authorities to improve service delivery.
14	Stalled sites / legacy cases: conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old	Amber	You have cleared 1 cases during the reporting year, with 1 cases still awaiting conclusion. Based on this and last year's figures, only 1 site reached legacy status during the reporting year and there has been no decrease in the number of stalled sites in your area.
15	Developer contributions: clear and proportionate expectations <ul style="list-style-type: none"> • set out in development plan (and/or emerging plan); and • in pre-application discussions 	Green	<p>Developer Contributions policy is set out in your LDP and is supported by supplementary guidance. RAG = Green</p> <p>Expectations for developer contributions are clarified in your pre-application discussions. Where pre-application discussions have not occurred officers will make applicants aware of any requirement for contributions at the earliest opportunity. RAG = Green</p> <p>Overall RAG = Green</p>

MORAY COUNCIL
Performance against Key Markers

Marker		2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
1	Decision making timescales						
2	Processing agreements						
3	Early collaboration						
4	Legal agreements						
5	Enforcement charter						
6	Continuous improvement						
7	Local development plan						
8	Development plan scheme						
9	Elected members engaged early (pre-MIR)		N/A	N/A	N/A	N/A	
10	Stakeholders engaged early (pre-MIR)		N/A	N/A	N/A	N/A	
11	Regular and proportionate advice to support applications						
12	Corporate working across services						
13	Sharing good practice, skills and knowledge						
14	Stalled sites/legacy cases						
15	Developer contributions						

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

2012-13	3	6	6
2013-14	2	5	6
2014-15	1	4	8
2015-16	1	3	9
2016-17	0	1	12
2017-18	0	1	14

Decision Making Timescales (weeks)

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2017-18 Scottish Average
Major Development	55.7	98.2	13.1	20.0	16.9	16.5	37.1
Local (Non-Householder) Development	20.0	13.5	8.5	7.5	7.2	6.6	11.1
Householder Development	10.1	7.1	5.8	6.3	5.7	5.3	7.3



**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
29 JANUARY 2019**

**SUBJECT: PLANNING ETC. (SCOTLAND) ACT 2006: SCHEME OF
DELEGATION**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 The report is to review the existing adopted Scheme of Delegation approved by this Committee on 25 February 2014 (para 5 of the minute refers). 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.
- 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 this Committee approve the revised Scheme of Delegation, as set out in Appendix 1.**

3. BACKGROUND

- 3.1 The Committee may be aware that the provisions of the Planning etc. (Scotland) Act 2006 introduced significant changes in the way in which the Council carries out its planning function which included the operation of Local Review Bodies.
- 3.2 Circular 5/2013 was issued in 2013 titled Schemes of Delegation and Local Reviews which provides the following advice in the introduction:

“The planning system should operate in support of the Government’s central purpose of creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. For decision-making this means providing greater certainty of process, including being timely and transparent, as a means to achieve better places for Scotland. Planning authorities use powers of delegation so that certain

decisions can be taken by officials instead of being considered by elected members of the authority at committee. Delegation to officers is an important means of adding efficiency to administrative processes and the Scottish Government wants to encourage an appropriate level of delegation to officials to support the role of the planning system in achieving their central purpose”.

3.3 It also important to remember that the 2006 Act introduced a ‘Hierarchy of Developments’ and under this Hierarchy, developments are split into three categories:

- **National** – developments of a national significance which feature in the National Planning Framework (a spatial development plan that provides the national context for key infrastructure and development for Scotland).
- **Major** – for which there is a prescribed schedule of what classes of development are regarded as major:
 - Developments requiring a Schedule 1 – Environmental Impact Assessment
 - Residential Development of more than 50 dwellings or 2 hectares
 - Business, general industry storage and distribution of over 10,000 sq. meters or 2 hectares
 - Other development in excess of 5,000 sq.meters or 2 hectares
 - Electricity generating stations exceeding 20 megawatts
 - Transportation or infrastructure projects in excess of 8km.
- **Local** – the third category, comprising all development other than national or major.

3.4 The current delegation scheme which has been operating since being adopted on 7 March 2014 (**Appendix 2**) and has resulted in 93 applications being determined by this Committee. In addition, there have been 29 special meetings held to deal with planning applications by way of a hearing and to deal with committee items outside of the scheduled committee calendar. The last special meeting requested (other than for a hearing) was held on 6 December 2016, and as such requests are kept to a minimum to ensure that resources are used efficiently.

3.5 The approved Scheme of Delegation was submitted to Scottish Government before being adopted. Once adopted, a copy was made available for inspection at Council offices, and at every public library. A copy is also available on the Councils website. The rationale behind the Scheme of Delegation is to support the Scottish Government’s intention that planning authorities should make the most effective use of its powers to delegate decisions on straightforward applications to officials, allowing elected members to focus on more complex and strategic applications.

4. SCHEME OF DELEGATION

- 4.1 The principal matters to be addressed as part of this review is whether the Committee wishes to make any further amendments to the current scheme that has been in operation for the last five years.
- 4.2 Following a review of the numbers and types of applications presented to this committee it is proposed to keep the approved Scheme of Delegation largely unchanged as it has operated efficiently and effectively over the last five years. The scheme has however been re-drafted for ease of reference and to avoid confusion over the definition of a major application (as set out in the hierarchy) and those that are considered to have local significance because of their impact on both Moray's economy and environment.
- 4.3 One proposed amendment is to remove the following criterion from the current scheme "The appointed officer is minded to approve an application which is a material departure from the Development Plan where the need for a hearing is required". There is no legislative requirement to hold a hearing other than the Pre-determination Hearings required for all National applications and for Major applications that are significantly contrary to the development plan. This proposed amendment would allow hearing requirements to be streamlined in line with the aims of circular 5/2013 and legislative requirements but would still allow any local or major application to be determined by holding a hearing should the appointed officer or this committee agree that this would be the most appropriate means of determination.
- 4.4 In relation to turbine applications over the last five years a small number have been referred to this committee on the basis that they raise matters of wider community interest and/or planning significance and it is proposed that this would continue to operate in the same way i.e. all those over 40 metres in height would not be determined under delegated powers.
- 4.5 All applications that are dealt with under delegated powers by officers can be the subject of a Local Review where refused. Since Local Reviews were introduced in 2014, 124 delegated decisions have been the subject of a review by the Moray Local Review Body (a panel of seven councillors). Of the 124 that was determined, 52 were upheld and the original decision overturned.
- 4.6 The High Hedges (Scotland) Act came into force in April 2014 and so far only two applications have been received and it is considered that due to the nature of these proposals that the arrangements for these to be determined by this committee would also continue.

5. SUMMARY OF IMPLICATIONS

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

This report enables the Council's priorities and objectives to be delivered.

(b) Policy and Legal

The requirements for preparing schemes of delegation are contained in the Schemes of Delegation and Local Review Procedures (Scotland) Regulations 2013 and the Town and Country Planning (Scotland) Act 1997.

(c) Financial implications

None.

(d) Risk Implications

There is a risk that performance could be impacted upon if the Scheme of Delegation increases the number of applications being referred to the Planning & Regulatory Services Committee. This may then require a review of the committee cycle to be undertaken, which would need approval of Moray Council, to ensure current performance levels are maintained.

(e) Staffing Implications

None.

(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 (Property and Contracts), Lissa Rowan (Committee Services Officer), Gary Templeton (Principal Planning Officer) and the Equalities Officer have been consulted and their comments taken into consideration in this report.

6. CONCLUSION

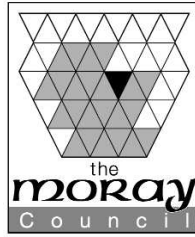
6.1 That the Committee agrees the revised delegation scheme as set out in Appendix 1. The approved scheme shall then be submitted to Scottish Government prior to adoption.

Author of Report: Beverly Smith, Manager, Development Management

Background Papers:

Ref:

THE MORAY COUNCIL
PROPOSED SCHEME OF DELEGATION
27 January 2019



Scheme of Delegation
Development Management

All categories of development applications submitted to The Moray Council as Planning Authority for consideration may normally be determined for approval or refusal by the appointed officer with the exception of applications of which one or more of the following applies:

- 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;
- Applications for 5-49 dwellings will only be approved under delegated powers if they are in accordance with the development plan);
- Any development where the gross floor space of the building, structure or other erection constructed as a result of the proposal exceeds 2000 sq.metres. (This will include, but is not limited to, business & general industry, storage and distribution, retail, leisure and entertainment, education, healthcare, community facilities, transport interchanges, transport infrastructure projects, water and drainage developments and other similar projects);
- Any other application where the overall area of the proposed site exceeds a maximum of 2 hectares;
- An application is submitted by, or on behalf of, an Elected Member of the Authority or an Officer involved in the statutory planning process;
- The proposal (as a whole or in part) has previously been reported to Committee or to a Departure Hearing (Special Committee Meeting) and the appointed officer considers that significant amendments have been made to any previous application for Committee to reconsider the development;
- The appointed officer considers, following the consultation process, that the application raises matters of wider community interest and/or planning significance The decision to refer to Committee or hold a hearing rests with the appointed officer and this discretion to refer may be exercised where, for example, all ward members and the chair consider that an application raises matters of wider community interest.
- The application falls within the category of “major development” as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008 (the Hierarchy Regulations) which came into force on 06 April 2009). See Schedule below:

SCHEDULE Major Developments Regulation 2(1)	
Description of development	Threshold or criterion
1. Schedule 1 development Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999(a) (other than exempt development within the meaning of those Regulations).	All development.
2. Housing Construction of buildings, structures or erections for use as residential accommodation.	(a) The development comprises 50 or more dwellings; or (b) The area of the site is or exceeds 2 hectares.
3. Business & General Industry, Storage and Distribution Construction of a building, structure or other erection for use for any of the following purposes— (a) as an office; (b) for research and development of products or processes; (c) for any industrial process; or (d) for use for storage or as a distribution centre.	(a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square metres; or (b) The area of the site is or exceeds 2 hectares.
4. Electricity Generation Construction of an electricity generating station.	The capacity of the generating station is or exceeds 20 megawatts.
5. Waste Management Facilities Construction of facilities for use for the purpose	The capacity of the facility is or exceeds 25,000 tonnes per annum. In relation to facilities for use for the purpose of

APPENDIX 1

of waste management or disposal.	sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge.
6. Transport and infrastructure projects Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.	The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 kilometres.
7. Fish Farming The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act.	The surface area of water covered is or exceeds 2 hectares.
8. Minerals Extraction of minerals.	The area of the site is or exceeds 2 hectares.
9. Other Development Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above.	(a)The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres; or (b)The area of the site is or exceeds 2 hectares.

MORAY COUNCIL
APPROVED SCHEME OF DELEGATION
25 FEBRUARY 2014



Scheme of Delegation
Development Management

All categories of development applications submitted to Moray Council as Planning Authority for consideration may normally be determined for approval or refusal by the appointed officer with the exception of applications of which one or more of the following applies:

- The application falls within the category of “major development” as defined below;
- The appointed officer is minded to approve an application which is a material departure from the Development Plan where the need for a Hearing is required;
- An application is submitted by, or on behalf of, an Elected Member of the Authority or an Officer involved in the statutory planning process;
- The proposal (as a whole or in part) has previously been reported to Committee or to a Departure Hearing (Special Committee Meeting) and the appointed officer considers that significant amendments have been made to any previous application for Committee to reconsider the development;
- The application is on a housing site designated for 50 dwellings or more within the Development Plan, regardless of whether the application is for all or part of the site.

None of the above applies but the appointed officer considers, following the consultation process, that the application raises matters of wider community interest and/or planning significance. The decision to refer to Committee rests with the appointed officer and this discretion to refer may be exercised where, for example, all ward members and the chair consider that an application raises matters of wider community interest.

1. **Major Development Applications** (defined on the basis of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008 (the Hierarchy Regulations) which came into force on 06 April 2009). *All Schedule 1 Developments mentioned in the EIA (Scotland) Regulations 1999;*
2. *Applications for 50 or more dwelling houses (applications for 10-49 dwelling houses will only be approved under delegated powers if they are in accordance with the development plan);*
3. *Any development where the gross floor space of the building, structure or other erection constructed as a result of the proposal exceeds 2000 sq.metres. (This will include, but is not limited to, business & general industry, storage and distribution, retail, leisure and entertainment, education, healthcare, community facilities, transport interchanges, transport infrastructure projects, water and drainage developments and other similar projects);*
4. *Electricity Generation (including wind farm developments) where the generating station has a capacity of or exceeding 20 MW;*
5. *Waste Management Facilities where the facility has a capacity of or exceeding 25,000 tonnes per annum;*
6. *Any other application where the overall area of the proposed site exceeds a maximum of over 2 hectares.*



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
29 JANUARY 2019**

**SUBJECT: DEVELOPMENT PLAN SCHEME 2019 - MORAY LOCAL
DEVELOPMENT PLAN 2020**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider the current timetable for the preparation of the Local Development Plan (LDP) 2020 and to agree that the Development Plan Scheme (DPS) is submitted to the Scottish Government.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee agrees the Development Plan Scheme 2019 for the Moray Local Development Plan 2020, as set out in Appendix 1 and that the Scheme is submitted to the Scottish Government.**

3. BACKGROUND

- 3.1 Planning authorities have a statutory requirement to set out a timetable for the review/production of their LDP in the form of a DPS and to submit this annually to the Scottish Government.
- 3.2 The 2018 DPS was approved at the meeting of this Committee on 27 February 2018 (para 13 of minute refers).

4. PROPOSALS

- 4.1 The DPS for 2019 is set out in **Appendix 1** and is intended to be a project management tool to ensure that the LDP is replaced within the statutory 5 year period. The Moray LDP 2015 was approved on 31 July 2015 and the end "target" date is to ensure that the new LDP is adopted by 31 July 2020.

- 4.2 The progress of the LDP is generally on track with the timetable set out in the DPS 2018, with the key 2018 milestones (see below) being met, with the exception of the reporting of the Proposed Plan;
- Main Issues Report engagement - January to March 2018 - completed.
 - Report representations to Main Issues Report (MIR) - September 2018. Report submitted to special meeting of this Committee on 25 September (para 3 of minute refers) - completed.
 - Proposed Plan presented to Committee for approval - December 2018. Report was to be submitted to special meeting of this Committee on 5 December, however this target was not met and the Committee was rescheduled to 18 December.
- 4.3 The above programme has been achieved with extensive public engagement at MIR stage, with officers taking part in a pilot Gatecheck as part of the proposed new planning legislation, with more place specific detail included in the Proposed Plan and with an initial Action/Delivery Plan.
- 4.4 The LDP process has five main stages and the Council is currently at stage 3 (Proposed Plan), with consultation on the Proposed Plan running from 7 January until 15 March 2019. Officers will then collate all objections received and report these to a special meeting of this Committee in June/August 2019 in the form of a series of “schedule 4’s”, with objections grouped by topic or geographic area. Unresolved objections will then be forwarded to Scottish Ministers with a request for an Examination to be carried out by an independent Reporter. The Examination process can take 6-9 months and the findings of the Reporter will be reported back to this Committee. Members should note that the Reporter’s findings are largely binding on the Council. Modifications will then be advertised and thereafter the Plan will be adopted.
- 4.5 At a special meeting of this Committee on 18 December 2018 (para 3 of minute refers), the Proposed Plan was approved as the “settled view” of the Council and the Committee agreed that the Proposed Plan be treated as a material consideration for development management purposes as of 1 February 2019. The weight to be given to the Plan as a material consideration will vary as it progresses through the next stages and this is set out in **Appendix 2**. The weight to be given to individual applications will be agreed between the Development Management Manager and the Development Plans Principal Planning Officer.

5. SUMMARY OF IMPLICATIONS

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

The LDP is a vital aspect of supporting and facilitating the Council’s priority for economic growth. The Plan also aims to deliver other key aspects of Moray 2026 including the delivery of affordable housing and conservation and enhancement of our high quality natural and historic environment.

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

(b) Policy and Legal

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

(c) Financial implications

The cost for the Examination of the 2015 LDP was £50,763, significantly lower than the budget of £80,000. A one year budget pressure to cover the cost of Examination has been noted for the 2019-20 budget and this will be considered by the Council in February 2019.

(d) Risk Implications

If the LDP is not replaced within 5 years, this will be identified as a "red" outstanding action in the annual PPF and there will be a reputational risk. There is also a risk that there will be a shortage of effective housing and employment land with a knock on negative effect upon the local economy and delivery of community planning partners' objectives.

(e) Staffing Implications

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

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

(f) Property

None.

(g) Equalities/Socio Economic Impact

There are no equalities issues arising from this report.

(h) Consultations

Corporate Director (Economic Development, Planning & Infrastructure), the Head of Development Services, the Legal Services Manager (Property & Contracts), the Development Management Manager, the Equal Opportunities Officer, Lissa Rowan (Committee Services Officer), the Senior Engineer Transport Development, the Estates Manager, the Educational Resources Manager, Environmental Protection Manager,

Paul Connor (Principal Accountant) and the Housing Strategy and Development Manager have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 Planning authorities are required to annually review their DPS which sets out the timetable for the review/replacement of the LDP.**
- 6.2 The 2019 DPS sets out the timetable for the preparation of the Moray LDP 2020 with the target date of approving the new LDP by July 2020.**

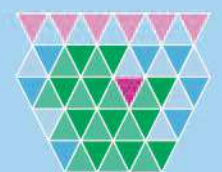
Author of Report: Gary Templeton, Principal Planning Officer

Background Papers:

Ref:

PLANNING AND DEVELOPMENT SERVICES DEVELOPMENT PLAN SCHEME

JANUARY 2019



moray
council



INTRODUCTION

The Planning etc (Scotland) Act 2006 introduced the requirement for planning authorities to prepare a Development Plan Scheme. The Scheme sets out the Council's proposed timetable for the review and preparation of its Development Plan and explains how it will engage with community, business and other interested parties.

The Development Plan Scheme is reviewed annually. This Scheme sets out the key milestones for the preparation of the Moray Local Development Plan 2020.

Current Development Plan

The current Development Plan for Moray is the Moray Local Development Plan 2015 which was adopted on 31st July 2015.



Moray Local Development Plan 2020- Progress Update

Scottish Government Circular 6/2013 identifies that there are five key stages in preparing a Local Development Plan as shown on diagram 1 on page 5. The Circular suggests that it will normally take in the region of 31 months from beginning through to adoption.

Once adopted the LDP, along with supplementary planning guidance and other material considerations will provide the basis for determining planning applications. The LDP covers the administrative area of Moray excluding the Cairngorms National Park, which has its own LDP.

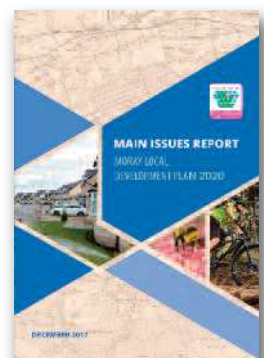
The replacement LDP should be adopted within 5 years to meet the Scottish Government target of a 5 year plan cycle.

Two Call for Sites exercises have been undertaken, with submissions subject to technical consultations as appropriate. Site checklists were completed and assessed by planning officers. A series of 5 Topic Papers, a State of the Environment Report and draft Strategic Environmental Assessment were prepared, along with the annual Monitoring Report to form the evidence base for the Main Issues report, which was approved for consultation at a special meeting of the Planning and Regulatory Services Committee on 15th December 2017.

Extensive engagement on the Main Issues Report was undertaken, with a series of presentations given to a variety of audiences, including Moray Federation of Village Halls, Community Planning Board, Community Planning Officers Group, NHS Grampian and Joint Community Councils. A series of drop in exhibitions were organised during the consultation exercise on the MIR, running from 8th January to 30th March 2018.

Elected members have been engaged early through their initial induction following the May 2017 local government elections, followed by;

- a workshop for all members on 4th December 2017 which discussed the main land use planning issues facing Moray.
- A series of ward level briefings on both strategic and local planning issues in December 2017, prior to considering the Main Issues Report.
- A series of ward level briefings on local planning issues in September 2017 prior to considering responses to the Main Issues Report.



- A placemaking study tour in November 2018, visiting Tornagrain new town, the Housing Expo site in Inverness and Inverness College/ UHI campus.
- A members workshop on new policy approaches in November 2018.

Planning officers have worked with local primary and secondary schools as part of youth engagement during the Year of Young People 2018 and have created a platform for further engagement, which will be developed into an ongoing programme and embedded in other land use planning related work. The youth engagement included a short film made by Buckie High School pupils which won an award at the Scottish Awards for Quality in Planning 2018.

Neighbour notification was carried out at MIR stage, ensuring that people were advised as early as possible of potential development proposals in their local area. The MIR resulted in over 400 responses which broke down into over 1775 comments and these were reported to a special meeting of the Planning and Regulatory Services Committee on 25th September 2018.

During early 2018 the Council also participated in a pilot "Gatecheck" exercise with the Scottish Government to examine the evidence base for the Local Development Plan at an early stage, as part of the new emerging planning legislation.

The Proposed Plan was approved at a Special meeting of the Planning and Regulatory Services Committee on 18th December 2018. Officers delayed this report to take account of the dualling preferred option which was published on 4th December 2018.

Following consultation on the Proposed Plan during January to March 2019, objections will be reported to the Planning and Regulatory Services Committee and a request for an Examination submitted in June/August 2019.

The LDP process is currently managed by the Principal Planning Officer (Development Plans), with progress reported and monitored through regular project meetings, reporting on the Service Plan, through the Planning Performance Framework, meetings with key stakeholders and through the LDP/ Infrastructure Delivery Group. The Development Plan Scheme sets out the key milestones which is supported by a detailed project plan.

The 5 key stages, progress to date and next steps are summarised in the table opposite.



EVIDENCE GATHERING Aug 2016 – May 2017

The Council gathers data and monitors the effectiveness of current policies and considers the need for additional housing and employment land. Section 16 of the Act requires planning authorities to publish a Monitoring Statement, which is one way of identifying the issues to be discussed in the Main Issues Report.

LDP process presentation to community representatives.

Nov 2016

Issue 1st call for informal bids.

Nov 2016

Issue 2nd call for bids

March 2017

MAIN ISSUES REPORT June 2017 – March 2018

Section 17 of the Act requires planning authorities to compile a Main Issues Report which should identify the authority's preferred options and consider reasonable alternatives where these are available. Extensive engagement takes place at the Main Issues Report stage.

Early engagement with elected members **May - Nov 2017**

Stakeholder session **Sept 2017**

Main Issues Report approved by Committee **Dec 2017**

Housing Need and Demand Assessment submitted to Centre for Housing Market Analysis **Jan 2018**

12 week public consultation **Jan - Mar 2018**

Neighbour notification **Jan 2018**

Series of drop in exhibitions throughout Moray **Jan - Mar 2018**

Workshop for community representatives **Feb - Mar 2018**

PROPOSED PLAN April 2018 – July 2019

Having had regard to representations received on the Main Issues Report, section 18 of the Act requires the planning authority to prepare and publish a Proposed Plan, which addresses the spatial implications of economic, social and environmental change, identifies opportunities for development and sets out the authority's policies for the development and use of land. The Proposed Plan also includes an Action/Delivery Programme.

Report representations to Main Issues Report. **Sept 2018**

Stakeholder and elected member workshops. **Oct/Nov 2018**

Proposed Plan presented to Committee for approval. **December 2018**

10 week public consultation. **Jan-Mar 2019**

Neighbour notification. **Jan 2019**

Series of drop in exhibitions. **Jan - Mar 2019**

Prepare Schedule 4's and report objections to Committee. **Apr - Aug 2019**



EXAMINATION Aug 2019 – Mar 2020

Unresolved representations to the Proposed Plan are forwarded to the Scottish Government with a request for a formal Examination by a Reporter(s) appointed by Scottish Ministers. The Reporter(s) will submit a report to the Council with recommendations which are largely binding on the authority.

Submit Proposed Plan for Examination.

August 2019

Respond to Further Information Requests/ participate in hearings.

August 2019 - March 2020

ADOPTION Apr 2020 – Jun 2020

The Council is required to publish the modifications arising from the Reporter's report and within three months of receiving the Examination Report to send details of the modifications made and the Proposed Plan to the Scottish Ministers. 28 days after this, the authority may adopt the plan unless directed not to by the Scottish Ministers.

Report Examination conclusions to Committee.

April 2020

Advertise Modifications May 2020.

May 2020

Adopt Plan

June 2020

Background papers and further information is available at www.moray.gov.uk/moray_section/section_109845.html





Appendix 2

Moray Local Development Plan 2020 - Proposed Plan

Operating the Proposed Plan as a material consideration.

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. The Plan is available for public consultation from 7 January to 15 March 2019 and representations (objections) will be reported to a special meeting of the P&RS Committee in June/August 2019 and thereafter a request for an Examination will be submitted to Scottish Ministers.

The approach set out below will be used in determining the weight to be given to the content of the Proposed Plan as it moves through the preparation stages to adoption.

- 1 February-June / August 2019 meeting of P&RS Committee to consider representations to the Proposed Plan - minimal weight to be given to the Proposed Plan, with the 2015 Plan being the primary consideration.
- June/August 2019 - LDP adoption mid 2020 - the weight to be given to matters set out in the Proposed Plan will vary;
 - Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through the Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
 - Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

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



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
29 JANUARY 2019**

SUBJECT: ALIGNING PLANNING AND ROADS CONSTRUCTION CONSENT

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To inform 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.
- 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 Committee:

- (i) notes that no representations were received in relation to the consultation with agents/developers to align the design principles of Planning and RCC;
- (ii) agrees 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) agrees that existing procedures will be reviewed to enable the consenting processes to be aligned as proposed in the implementation plan in Appendix 1;
- (iv) agrees not to waive the Pre-application costs associated with applications to assist developers with the additional upfront costs of aligning consents;
- (v) agrees 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) instructs officers to arrange a training session for Members on Designing Streets, and the use of Street Engineering Reviews & Quality Audit as material planning considerations.

3. BACKGROUND

- 3.1 In January 2016 the Chief Planner wrote to all Heads of Planning to encourage all authorities to agree to align two separate consenting procedures Planning Consent (PC) and Roads Construction Consent (RCC), for housing developments. A framework was designed and tested which involved several local authorities and this demonstrated that by following this approach in practice it can help to achieve the following:
- To improve certainty for developers and applicants through earlier and more productive engagement; and
 - To provide consistency across local authorities by following a structured streamlined approach to processes, both before and during consideration of applications.
- 3.2 Aberdeenshire Council have introduced procedures for aligning consents and have highlighted this way of working in their Planning Performance Framework for 2016/17. The experiences of Aberdeenshire have been shared with Moray and these have been a useful insight into the benefits of aligning the design principles of the street layout in both planning and RCC processes at an early stage. This is a key area of alignment as the level of detail required for the RCC is unlikely to be available at the planning stage for the larger developments in Moray.
- 3.3 At its meeting on 19 June 2018 (para 10 of minute refers), this Committee agreed the principles of aligning planning and RCC to be the subject of consultation with developers and agents.

4. CONSULTATION RESPONSES

- 4.1 The report and associated appendices were sent out to 100 developers/agents who planning and transportation have regular contact with for a consultation period of six weeks which finished on the 24 August 2018.
- 4.2 No representations have been received.

5. NEXT STEPS

- 5.1 **Appendix 1** sets out an implementation plan to enable the two processes in terms of the detailed street design to be better aligned. The revised processes seek to reduce the delay and loss of design quality where, for example, detailed information is not available at the planning stage for Transportation engineers to undertake a Street Engineering Review (SER) during the planning process, without which there can be significant changes to the design at a later stage. A collaborative process of partnership and cooperation will be required from the outset between all parties.
- 5.2 To assist and encourage developers to align consents it is proposed to introduce a Design Workshop to run alongside the Pre-application process and will utilise existing staff resources. The current guidance and web site will be updated to reflect the new aligned ways of working and use case studies to demonstrate best practice.

- 5.3 A revised version of the Quality Audit , to be referred to as Quality 2 will also be reported to this Committee in March 2019 and is recommended to be a material consideration in the determination of planning applications. The Street Engineering Review (SER) is to be embedded into this process and will ensure that the street design will become fixed at a much earlier stage. The Moray Local Development Plan 2020 policies will also assist with the desire for the two processes to become more aligned.
- 5.4 As part of the revised procedures it is envisaged that the number of suspensive planning conditions relating to street layout that are currently imposed on a planning consent will be reduced. Again this will save both officer and developer resources post consent as well as reducing the potential for conflict and giving more certainty to the overall delivery of development.
- 5.5 Where a planning application does not have a sufficient level of detail to ‘fix’ the street layout, and initial discussions with the applicant indicate that this detail is unlikely to be received quickly there will be a response that there is insufficient detail to assess the application. This is in line with the planning policy position and the supplementary guidance provided by Designing Streets and the National Roads Development Guide. This level of detail is the minimum information that allows the Roads Authority to assess the transport implications of a planning application. Working round an absence of this information through the use of suspensive conditions (as has been practice in a number of applications in recent years) creates additional work for the Council as both Planning and Roads Authority, imports additional time into the process, and creates confusion and uncertainty – especially when dealing with linked processes such as Roads Construction Consent.
- 5.6 It will be important through the review of case studies over the next two years that lessons learnt are recorded and used to inform operational practices with the objective of aligning processes whilst saving resources for both the council and developers at the same time.

6. SUMMARY OF IMPLICATIONS

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

The planning system plays an important role in supporting the delivery of the Council’s aspirations for economic development, as well as providing land for private and affordable housing, safeguarding the environment and promoting opportunities for health. The changing planning system has a greater emphasis upon delivery, more engagement, quality outcomes and co-ordination of infrastructure to support development, which all support Moray 2026.

(b) Policy and Legal

Development Management Regulations 2013 for dealing with planning applications. Section 21 of the Roads (Scotland) Act 1984. Moray Local Development Plan 2015.

(c) Financial implications

There will be no financial implications incurred through the contents of this report except for developers who will need to produce more detailed information in drawings at an earlier stage.

(d) Risk Implications

The risks of not aligning the design principles of consents may result in the integrity of the planning system being impacted upon along with delays to developments, which may have an adverse economic impact.

(e) Staffing Implications

No staffing implications are currently proposed as a result of this proposed aligning of procedures.

(f) Property

There are no property implications incurred through the contents of this report.

(g) Equalities/Socio Economic Impact

There are no equalities implications incurred through the contents of this report.

(h) Consultations

The Corporate Director (Economic Development, Planning and Infrastructure), the Head of Development Services, the Head of Direct Services, the Head of Housing and Property, the Legal Services Manager (Property and Contracts), Educational Resources Manager, Paul Connor (Principal Accountant), Lissa Rowan (Committee Services Officer), the Design Manager, the Housing Strategy & Development Manager, the Senior Engineer Transport Development, Gary Templeton (Principal Planning Officer), Neal MacPherson (Principal Planning Officer), the Consultancy Manager, the Building Standards Manager and the Equalities Officer have been consulted and their comments taken into consideration in this report.

7. CONCLUSION

7.1 Designing Streets is Scotland's policy statement on street design and highlights the importance of Planning Consents and RCC being more aligned. Aligning the design principles of Planning and RCC should be promoted as best practice in Moray and procedures and processes will be improved as a result.

Author of Report: Beverly Smith, Manager Development Management
Nicola Moss, Transportation Manager

Background Papers: Appendix 1 – Implementation Plan

Appendix 1 – Draft Proposed Implementation Plan

Action Plan:

<p>Pilot Project identified - August 2018 -Stynie Road, Mosstodloch – Timescale, August 2018- Lead Officers – Principal Planning Officer Development Plans/Housing Strategy & Dev. Manager</p>	
<p>Meeting of Planning & RCC Alignment Working Group – Timescale, February 2019 - Lead Officers – Principal Planning Officer Development Plans, Senior Engineer Transport Development, Principal Development Management Officer, Senior Engineer Traffic</p>	
<p>Identify other projects to benefit from closer aligning of processes – Timescale – ongoing Members of Planning & RCC Working group</p>	
<p>Revised Quality Audit 2 & Street Engineering Review – Report to committee on 26 March 2019 – Lead officers - Principal Planning Officer Development Plans/Senior Engineer Transport Development</p>	
<p>Review of Pre-application process to include design workshop – to be completed once results of pilot are known - mid 2019 – Principal Development Management Officer to update.</p>	
<p>Introduction of ‘Design Freeze’ during application process, to aid consideration of RCC requirements and finalise amendments – nb street lighting and detailed road drainage design to be considered as part of RCC application</p>	
<p>Review planning consultation process with transportation and how it fits with Quality Audit 2 process – - Mid 2019 – Development Management Manager/Senior Engineer Transport Development</p>	
<p>Lessons Learnt from Pilot to be documented and shared following submission and assessment of planning application & receipt of consultation responses - Mid 2019/ongoing – Principal Planning Officer Development Management with planning case officers to record issues</p>	

and feedback for consideration

DM/Development Plans/Transportation web pages to be updated with revised procedures following agreement of Quality Audit 2 – Timescale April 2019, Lead Officers - Principal Planning Officer Development Plans/Senior Engineer Transport Development/Principal Planning Officer Development Management

Validation Meetings on receipt of planning applications – arranged to identify lack of supporting information to accompany the planning application from all consultees. Agree with applicant whether application to be put on hold pending submission of details – Timescale ongoing - Lead Officer - Principal Planning Officer Development Management

Delivery Meetings set up for all major planning applications – from receipt to implementation (including condition discharging) condition discharging - Timescale ongoing

Review of Planning Conditions from Consultation Responses – no suspensive conditions requiring the submission of detailed drawings – Senior Engineer Transport Development/Senior Engineer Traffic/Manager Development Management – timescale ongoing



**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
29 JANUARY 2019**

SUBJECT: TREE PRESERVATION ORDERS

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report asks Committee to confirm the Tree Preservation Orders (TPOs) approved by Committee on 19 June 2018 (para 13 of the minute refers) at Dallas Dhu, Forbes and Findhorn Village Entrance, with modifications.
- 1.2 This report is submitted to Committee in terms of Section III (E) (7) of the Council's Scheme of Administration to make, vary and revoke orders for the preservation of trees.

2. RECOMMENDATION

2.1 It is recommended that the Committee confirm:-

- (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.

3. BACKGROUND

- 3.1 Policy E4 *Trees and Development* of the Moray Local Development Plan 2015 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value. In Moray, there are currently 36 TPOs.
- 3.2 Responsibility for the management of trees, including protected trees, rests with the owner of the land upon which they stand. Where trees are protected by a TPO, any works proposed to a protected tree – other than that allowed under exemption – requires the permission of the Council. Following submission of Proposed Tree Works application, Development Plans Officers

have 6 weeks to determine the application and will undertake a site visit and consultation with a certified arborist, if required. Any trees which are felled within a TPO must be replanted.

- 3.3 TPOs are subject to a minimum 28 days public consultation during the period between Committee giving approval to serve the Order and the Committee confirming the Order. The Order must be confirmed by Committee no more than 6 months after the Order has been served or revoked. During the consultation period, the public can give representations either in support of, or objecting to the Order. In terms of Regulation 5 of the Town and Country Planning (Tree Preservation Orders and Trees in Conservation Areas) (Scotland) Regulations 2010, the Council must consider all representations before confirming the TPO with or without modifications.
- 3.4 The serving of TPOs at Dallas Dhu and Findhorn Village Entrance were approved by this Committee at its meeting on 19 June 2018 (para 13 of the minute refers).

4. PROPOSALS

Dallas Dhu, Forbes

- 4.1 After approval by Committee on 19 June 2018, the TPO was served on 5 September 2018 and advertised publically for a consultation period of 28 days, until 5 October 2018, for representations to be received.
- 4.2 One representation was received from the Dava Way Association in respect of two areas (W1 and W5 on the map as set out in **APPENDIX 1**). Their comments are summarised in **APPENDIX 2** along with the Council's proposed response.
- 4.3 In considering the representation from the Dava Way Association, it is proposed that the TPO be amended to include an exemption for areas W1 and W5 that an annual maintenance plan for these areas, prepared by a certified arborist, be submitted by the Dava Way Association to the Council for approval. This would streamline the process to allow the Dava Way Association to continue to maintain the Dava Way to an accessible standard without the requirement to apply to the Council each time they require to carry out regular maintenance work. The removal of trees within the two areas would still require an application to the Council for consideration.

Findhorn Village Entrance

- 4.4 After approval by Committee on 19 June 2018, the TPO was served on 24 October 2018 and advertised publically for a consultation period of 28 days, until 22 November 2018, for representations to be received.
- 4.5 Two representations were received, one from Mr & Mrs Stewart, Findhorn and one from the Findhorn Foundation. Their comments are summarised in **APPENDIX 3** along with the Council's proposed response.

- 4.6 In considering the objection from the Findhorn Foundation, it is proposed that the TPO be amended to exclude the area used for food production at Cullerne Gardens, which does not contain mature trees which are of significant amenity value to the wider community. An amended map has been provided as **APPENDIX 4.**

5. NEXT STEPS

- 5.1 If the Committee agree to confirm the TPOs as set out in Section 2 of this report, the Council are required to register the TPOs in the Land Register of Scotland.
- 5.2 In addition, notice will be given to the Forestry Commission, interested persons and any person who made a representation. A copy of the TPOs will also be made available for public inspection.

6. SUMMARY OF IMPLICATIONS

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

The Corporate Plan prioritises the need to maintain and promote Moray's landscape and biodiversity. The 10 Year Plan identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. Serving TPOs protects significant trees and woodlands and conserves the local natural environment and biodiversity whilst also helping to promote healthier lives.

(b) Policy and Legal

The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 provides for the serving, varying and revoking of TPOs.

(c) Financial Implications

Land registry and advert costs will be met from existing Planning and Development section budgets.

(d) Risk Implications

There is a risk that the trees at both the ENV6 designation and adjacent to 4 Heathneuk in Findhorn and at Dallas Dhu in Forres could be felled with a resultant significant loss of amenity if TPOs are not served and confirmed.

(e) Staffing Implications

The registration and notification of confirmed TPOs has staffing implications for Development Plans and Legal Services.

(f) Property

None.

(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 (Property and Contracts), 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

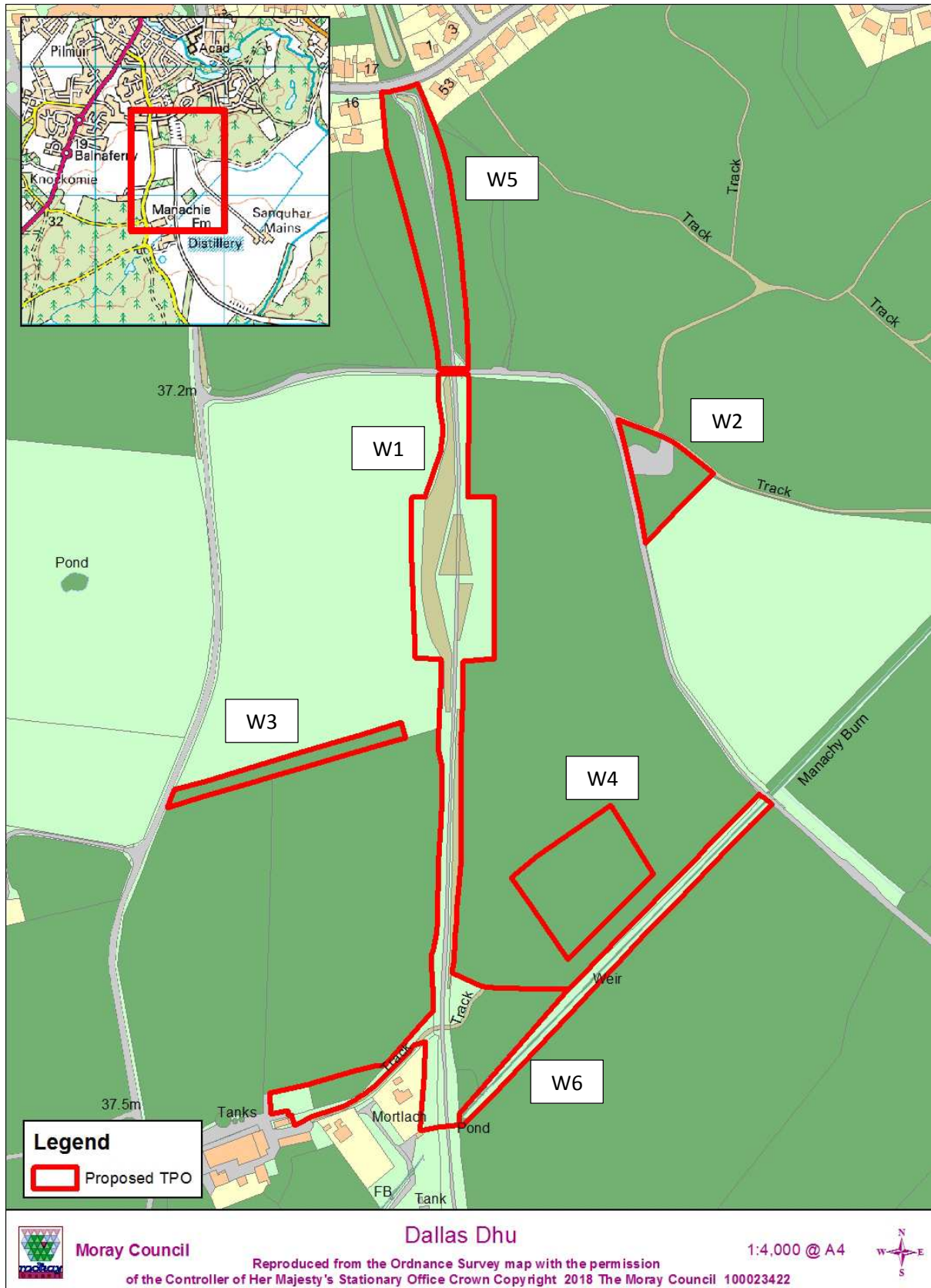
- 7.1 TPOs are formal orders attached to important, feature and character creating trees and woodlands to protect the amenity value they contribute to the local community. TPOs are proposed at Dallas Dhu, Forres and Findhorn Village Entrance.**
- 7.2 Following representation, an exemption is proposed for the TPO at Dallas Dhu which will streamline the process and allow the Dava Way Association to continue to maintain the Dava Way to an accessible standard.**
- 7.3 Following representations to the TPO at Findhorn Village Entrance, it is proposed to exclude the area used for food production at Cullerne Gardens, which does not contain mature trees which are of significant amenity value to the wider community.**

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

Background Papers:

Ref:

APPENDIX 1



APPENDIX 2

Dallas Dhu TPO – Comments and Proposed Response

Comment/Objection	Proposed Response
No objection to TPO in principle. Dava Way Association requires to carry out maintenance work along the Dava Way to ensure it remains accessible. Seek an exemption to allow for the loping of branches where they encroach onto the Dava Way and which impede access or pose a threat to safe passage along it.	The Council accepts that the Dava Way Association has a duty of care to maintaining the Dava Way and that the requirement to apply to the Council to carry out works on protected trees as set out in the TPO may become cumbersome. Therefore, an exemption is proposed that an annual maintenance plan for areas W1 and W5 be submitted by the Dava Way Association, prepared by a certified arborist, to the Council for approval. The removal of trees within the two areas would still require an application to the Council for consideration.

APPENDIX 3

Findhorn Village Entrance TPO – Comments and Proposed Response

Comment/Objection	Proposed Response
<p>Objection to the inclusion of entire are of Cullerne Gardens as most of the area is agricultural land and does not contain trees. Concerns that the food production may unreasonably restrict activities and a balance has to be kept between tree growth and crop production. Believe that most trees in Cullerne Gardens have little or no visual or physical impact on surrounding public areas and would not object if the area immediately adjacent to the public road was to be excluded. TPO is unreasonably restrictive as tree diameters of 10cm are not very big.</p>	<p>The Council believes that the trees within Cullerne Gardens play a strong part in creating the entrance gateway into Findhorn. Acknowledging that the central part of Cullerne Gardens is used for food production, the Council proposes that the boundaries of the TPO be amended to exclude this part of the Gardens from the TPO. The diameter of a tree which is provided under exemptions is set out in legislation and is not open to challenge.</p>
<p>Notes that a professional tree surgeon is used to provide maintenance to various trees within gardens. Concerns about what maintenance is allowed under the TPO.</p>	<p>Any works proposed on a tree(s) within the TPO (whether it is maintenance, removal or other) requires to be submitted to the Council, as Planning Authority, for consideration. Proposals which are deemed acceptable are subject to the works being carried out by a qualified tree surgeon and on the basis that the works will not damage the trees leading to a loss of amenity value.</p>

APPENDIX 4



