

## MORAY COUNCIL

### MINUTE OF THE SPECIAL MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE

28 JUNE 2022

COUNCIL CHAMBERS, ELGIN

#### **PRESENT**

Councillors Gatt (Chair), Divers, Dunbar, Keith, Leadbitter, McBain, Mustard and Warren.

#### **APOLOGIES**

Apologies were intimated on behalf of Councillors Cameron, Cowe, Gordon, Lawrence and Macrae. It was noted that Councillors Cameron, Gordon, Lawrence and Macrae could not attend the meeting because of the need to attend to other Council business.

#### **IN ATTENDANCE**

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Mrs D Anderson, Senior Engineer (Transportation), Ms Webster, Senior Planning Officer (Strategic Planning and Development), Mr A Miller, Senior Planning Officer, Ms L MacDonald, Senior Planning Officer, Environmental Health and Trading Standards Manager, Legal Services Manager 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 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.

Councillor Dunbar stated that she had been contacted by an objector to item 12a) Planning Application 20/00781/APP however had disregarded the information provided and was able to determine the application. Councillor Divers declared an interest in item 8 Planning Application 21/01217/APP, item 9 Planning Application 21/01350/APP, item 10 Planning Application 21/01717/APP, item 11 Planning Application 21/01801/APP and item 12 Planning Application 21/01821/APP as his son works for the developer and stated that he would leave the meeting during determination of these planning applications. There were no other declarations of Member's interests in respect of any item on the agenda.

#### **2. EXEMPT INFORMATION**

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

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
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### **3. PLANNING APPLICATION 22/00339/APP**

#### **WARD 2: KEITH AND CULLEN**

**Section 42 Application to modify Condition 1 of planning permission (17/01198/EIA / PPA-300-2052) granting permission for "a period of 30 years from the date when electricity is first exported from any wind turbine within the development to the electricity network (First Export Date)" to granting a permission for a period of 35 years Lurg Hill Deskford Moray for Vento Ludens Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a Section 42 Application to modify Condition 1 of planning permission (17/01198/EIA / PPA-300-2052) granting permission for "a period of 30 years from the date when electricity is first exported from any wind turbine within the development to the electricity network (First Export Date)" to granting a permission for a period of 35 years Lurg Hill Deskford Moray for Vento Ludens Ltd..

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the overall area of the proposed site exceeds a maximum of 2 hectares.

During discussion surrounding the recycling of the materials associated with the development at the end of their lifespan, it was queried whether a condition could be added to ensure this.

In response, Mr Smith, Principal Planning Officer advised that adding a condition of this nature was not appropriate as the application was for a Section 42 application to extend the operational lifetime only however an informative could be added to the decision to this effect. This was agreed.

Thereafter, the Committee agreed to grant planning permission in relation to Planning Application 22/00339/APP subject to:

- the inclusion of an informative in relation to the recycling the materials associated with the development at the end of their lifespan; and
- the following conditions and reasons:
  1. The permission as hereby granted is for a period of 35 years from the date when electricity is first exported from any wind turbine within the development to the electricity grid network (First Export Date), and written confirmation of this

First Export Date shall be provided to the Council, as planning authority within one month thereof.

**Reason:** To define the duration of the permission.

2. In the event that any wind turbine(s) installed and commissioned fail(s) to supply electricity on a commercial basis to the grid for a continuous period of 6 months, or is no longer required, the turbine(s) in question shall be deemed to have ceased to be required. Under such circumstances, any wind turbine(s) along with any ancillary equipment, fixtures and fittings no longer required in connection with the remaining turbine(s) shall be dismantled and removed from the site within 3 months of the end of the said continuous 6 month period, or when ceasing to be no longer required.

Thereafter, the surrounding land shall be re-instated in accordance with a re-instatement scheme to include specification of all works and timescale for re-instatement of the land which shall previously have been submitted to and approved by the Council, as planning authority.

**Reason:** To ensure that any redundant or non-functioning wind turbine(s) is/are removed from the site in the interests of public safety, amenity and environmental protection and to ensure acceptable arrangements for the re-instatement of the ground are provided.

3. No development shall commence until:
  - a) a draft Decommissioning and Site Restoration Plan for the site has been submitted to and approved in writing by the Council, as planning authority in consultation with SEPA, SNH and/or other agencies as appropriate; and
  - b) thereafter, and not later than 12 months prior to the expiry of this permission or decommissioning of the development, whichever is the sooner, a detailed Decommissioning and Site Restoration Plan, based upon the principles outlined in the approved draft Plan, shall be submitted to and approved by the Council, as planning authority in consultation with SEPA, SNH and/or other agencies as appropriate.

The required/proposed plans shall include provision for all turbines and ancillary infrastructure and equipment (including all buildings and structures, hardstandings and tracks, etc.) to be decommissioned, de-energised and dismantled to at least ground level and thereafter, removed from the site together with the arrangements to retain any access tracks and other infrastructure on the site, the treatment of disturbed ground surfaces, the management and timing of all proposed works, the provisions for environmental management including traffic and other plans to address issues and impacts likely to arise during the decommissioning period and the provisions for the restoration and aftercare of the site.

Thereafter, the development shall be decommissioned and the site restored and re-instated in accordance with the approved Plan details.

**Reason:** To ensure the arrangements for both decommissioning of the development and re-instatement of the site are undertaken in an appropriate environmentally acceptable and timeous manner, with all wind turbines and associated infrastructure permanently removed from the site in the interests of

safety, environmental protection, amenity and appearance of the site and the surrounding area.

4. Prior to the development commencing, details shall be submitted to and approved in writing by the Council, as planning authority regarding evidence of a bond or other similar financial provision to be put in place to cover all decommissioning and site restoration costs on the expiry of the permission or where the turbines cease to be required, whichever is the sooner. The required bond or equivalent shall:
  - a) be based on the Decommissioning and Site Restoration Plan (as required by Condition 3);
  - b) include documentary evidence to demonstrate that the amount of the bond or financial provision is sufficient to meet the full estimated costs of decommissioning and site restoration, including dismantling, removal, disposal, site restoration, remediation and all other incidental works and professional costs; and
  - c) include details to ensure and demonstrate that the proposed financial arrangements will be maintained and be subject to periodic review throughout the lifetime of the development. The findings of each successive review shall be submitted to and approved by the Council, as planning authority, and include evidence to demonstrate that financial arrangements continue to remain in place and remain sufficient for both the decommissioning of the development and restoration of the site. The review period shall be not less than 5 yearly intervals from commencement of the development, or such other period as may be agreed in writing with the Council, as planning authority.

Thereafter, the development shall not commence until written evidence has been provided to the Council, as planning authority to confirm that the approved bond or financial provision arrangement has been put in place.

**Reason:** To ensure that sufficient funds are available to address the anticipated arrangements and estimate of costs of decommissioning and reinstatement and restoration of the site.

5. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SNH, SEPA and other agencies where appropriate regarding:
  - a) confirmation of the make, model, design, power rating and sound power levels of all turbines to be used (and at all times the total number of turbines to be erected shall not exceed 5 and the blade tip height shall not exceed 130m above ground level);
  - b) the external colour and/or finish of the turbines including towers, nacelles and blades, which shall be non-reflective, semi-matt pale grey/off-white;
  - c) unless otherwise located within the tower of each wind turbine, the location, design specifications and external material finishes and colour of any external wind turbine transformer housing together with details, including landscape and visual impact information, to demonstrate that the external housing will not adversely affect the landscape and visual character, integrity and amenity of the site and the surrounding area;
  - d) for the sub-station compound, the design external appearance and material finishes and colour of all proposed buildings and structures to be erected, stationed or installed within the compound area (including any sub-station control building) together with the finalised site layout

arrangements including the location, dimensions, external appearance and surfacing materials for the compound area, all fencing or other means of enclosure to be erected and all other proposed/required ancillary infrastructure to be provided including any required/proposed external switch gear infrastructure to be located within the compound, the arrangements for access and parking and disposal of foul and water from the compound area, external lighting arrangements (where proposed), etc.;

- e) for the temporary construction compound, the location, extent and site layout arrangements including the placement and purpose/use of all buildings/structures within the compound, areas for storage of materials, parking, disposal of foul and surface water, means of enclosure, and external lighting arrangements, etc. together with timescales for both establishment and removal of the temporary construction compound and details for restoration and re-instatement of the site following removal of the temporary compound;
- f) detailed access track designs for all on-site access tracks and passing places, to include their location and routing, design construction specifications and surfacing materials, and the arrangements for drainage disposal for each track section.
- g) the location(s) and design specification(s) for all required/proposed up-graded existing and new watercourse crossings and engineering works within the water environment. With the exception of any proposed watercourse crossings and directly related tracks, the details shall demonstrate that all new infrastructure works occur outwith a 50m buffer area from water features on the site unless justification is provided, all watercourse crossings shall be adequately sized to enable them to accommodate 1 in 200 year peak flows (with allowance for climate change of 30% increase in flows) at each point without causing constriction of flows or increasing the risk of flooding elsewhere, and where watercourse crossings cannot be avoided, the use of bottomless or arched culverts (or bridging solutions) which do not affect the bed or banks of the watercourse, and all designs of crossings shall follow good practice guidelines;
- h) a drainage assessment or strategy to manage all drainage from the site to include the location(s) and design specification(s) and timescale(s) for provision of the arrangements for the disposal of foul and surface water from the site, the former shall include the disposal of effluent from the site and the latter shall incorporate SUDs, and provide for details to address both construction and operational stages of the development and demonstrate how run-off will be managed to minimise the risk of flooding, erosion, sediment run-off and pollution of any watercourse. (These details may be incorporated within any site specific Construction and Environmental Management Plan (CEMP) (see Condition 6 below));
- i) details of all required/proposed pre-commencement of development ecological surveys to be undertaken to determine the presence or otherwise of any designated habitat or protected species, to include a schedule identifying which habitats and species will be subject to survey, the scope and time-scale(s) for undertaking each survey, and thereafter the results of the surveys together with all further measures required/proposed to mitigate the impact of the development upon species and habitats as identified within the Environmental Statement (Chapter 13 Ecology and Ornithology refers). This shall include a goshawk breeding survey prior to construction or felling as recommended within Chapter 13.

- (These details may be incorporated within any site specific CEMP (see Condition 6 below));
- j) details of all further targeted ground investigation works to inform the geo-technical design for each element of the development, to include a schedule to identify which works element will be subject to further investigation, and thereafter the outcomes of such investigation, to include the location and design specification for further works and all measures required/proposed to mitigate the impact of the development works. Site compounds that are required to enable the site investigation works shall be agreed with the Planning Authority in advance in terms of siting and form of construction. (These details may be incorporated within any site specific CEMP (see Condition 6 below));
  - k) where potentially affected by the development, for example by constructing new or up-graded existing access tracks, details of the arrangements to monitor private water supplies during all stages of the development, and in the event of any adverse effect(s) on water quality or quantity being identified, the arrangements and procedures to undertake restorative and remedial works to maintain any supply (as recommended within the Environmental Statement, Chapter 12 refers); This shall include in particular measures to monitor the supply known as 'Mid Skeith' to detect any changes to water quality and allow for further mitigation measures to be put in place if necessary; and
  - l) confirmation of all required/proposed mitigation measures (where not already embedded within the submitted design and layout of the development) for all stages of the development, to be contained within a Schedule of Mitigation or similar together with details regarding the process to control/action changes from any agreed Schedule of Mitigation. The Schedule shall include (but not be limited to) all required/proposed measures to mitigate the impact of the development upon the water environment (hydrology, hydrogeology and geology) and nature conservation (ecology and ornithology including protected species and sensitive habitat) interests. (These details may be incorporated within any site specific CEMP (see Condition 6 below)). For the avoidance of doubt this permission does not include approval for the formation of any borrow pits.

Thereafter, the development 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 landscape, visual and/or other environmental considerations, including addressing the risk of damage from flooding and surface water effects including pollution, erosion and sediment impacts on the environment, to minimise impacts on ecological habitats, in the interests of good land management and protection and enhancement of habitats, and to maintain the wholesome provision of any private water supply where affected by the development.

6. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SEPA and SNH and other agencies as appropriate regarding a site-specific Construction and Environmental Management Plan (CEMP). The CEMP shall address all issues for all stages of the development (i.e. pre-construction, construction, operation and decommissioning), identify all works and elements of the

development potentially capable of giving rise to pollution or causing environmental harm, and identify all required/proposed measures to mitigate the identified impacts, including those as set out in the Environmental Statement (Volume 1 Written Statement) and in particular, but not limited to, those identified in relation to the water environment (Chapter 12, Hydrology, Hydrogeology and Geology/Peat) and ecology and ornithology (Chapter 13 Ecology and Ornithology). The CEMP shall demonstrate the incorporation, rather than by reference alone, of SEPA's Pollution Prevention Guidelines including those relating to construction and provide for (but not be limited to) the following:

- a) methods of construction and working for the provision of all turbines and site infrastructure;
- b) site waste management plan – for all aspects of waste produced on the site;
- c) pollution prevention and control measures – to include arrangements for storage and management of oil, fuel and concrete on the site;
- d) construction surface water management plan - to include a map of all watercourses and ditches on site and all proposed infrastructure, mitigation proposals and justification of appropriateness, a map of all proposed mitigation locations (i.e. silt fences, straw bales, cross drains, settlement lagoons, etc.) and details of procedures for dealing with emergencies and spills;
- e) drainage management plan - to address the management of foul and surface water drainage, in both water quality and quantity terms and the arrangements to dispose of foul effluent, and manage surface water to prevent flooding, and pollution of water courses (see Condition 5 g)
- f) stream crossings and all watercourse engineering (see Condition 5 f));
- g) peat protection/management plan to show how the finalised micro-sited layout has been designed to minimise impact on and avoid areas of deep peat;
- h) emergency procedures to include the locations and use of spill kits, etc. and provisions for staff training;
- i) adverse weather (wet weather) working – to include an action plan (after H&S considerations) about arrangements for working and assessment of potential damage including sediment mitigation, use of equipment (for example, pumps), etc.;
- j) ground and surface water management and treatment - to include details for monitoring (to be established prior to the commencement of works on site and thereafter for all subsequent stages of the development), and a response plan to detail actions to be taken should impacts on the water environment occur;
- k) water abstraction – to include details of any abstraction/dewatering, proposed quantities, uses and discharges including use of any temporary sub-surface water controls such as de-watering during construction (and where de-watering is used, the Plan shall demonstrate that any such discharges are limited to discharges that are of uncontaminated groundwater abstracted directly through boreholes/well pointing and discharged without contact with any other drainage run-off);
- l) formation of construction compound to include the arrangements for refuelling, tools and materials storage, car parking and concrete batching plant, settlement lagoons (to prevent cement and concrete washing out into ground or surface water) and the details of the final outfall to surface or groundwater and the arrangements to treat such effluent prior to discharge, for example by installation of a treatment plant or use of

- alternative arrangements (for example, that wash out water is tankered off-site, etc.);
- m) dust management plan;
  - n) measures to prevent loose or deleterious material being deposited on the local road network including provision for on-site wheel cleaning, etc.
  - o) noise management plan - to identify all sources of noise emissions associated with the construction phase of the development together with details of all measures to manage and mitigate the effects of construction noise occurring at and within the site;
  - p) species protection plans – to include arrangements for pre-commencement surveys to confirm presence or absence of species and habitats, timing(s) of works to avoid disturbance, development of buffer areas to prevent encroachment onto and into areas of protected species and valued habitats (see Condition 5 i));
  - q) invasive non-native species protocol – to address all bio-security and other measures to be adopted to remove or prevent the spread of any non-native plant species on the site; and

In addition, the CEMP shall include reference to the terms of appointment of an appropriately qualified Ecological Clerk of Works (ECoW), to be appointed by the applicant/developer/wind turbine operator and approved by the Council, as planning authority in consultation with SNH. The terms should identify the period(s) of appointment and the remit of the ECoW in terms of roles and responsibilities which should include (but not be limited to) undertaking pre-construction survey work and monitoring compliance with the hydrological and ecological/ornithological commitments and mitigation arrangements to be undertaken, as identified in the Environmental Statement and other supporting documents including the CEMP, overseeing the placement of development infrastructure within the site and addressing all environmental considerations, and the arrangements for reporting upon works undertaken on site and incidences of non-compliance of works to the Council, as planning authority and the applicant/developer/wind farm operator's construction representatives.

Thereafter, the development shall be carried out in accordance with the approved Plan.

**Reason:** In order to ensure that all development works are undertaken and managed in an environmental acceptable manner and to minimise the impacts arising from construction and operation of the development upon the environment, to secure detailed information on the delivery of mitigation works and measures as identified which are current lacking from the submitted particulars and to secure effective monitoring and compliance of all required/proposed environmental and ecological mitigation and management measures associated with implementation of the development.

7. The blades of all turbines shall rotate in the same direction and no name, symbol, sign or logo or similar means of advertisement, other than those required for health and safety reasons, shall be displayed on any part of the turbines, masts, buildings/ structures and plant, or other infrastructure associated with the development without the prior written consent of the Council, as planning authority.

**Reason:** To minimise the visual impact arising from the appearance of the development.



8. The compensatory planting proposals as detailed within the accompanying document entitled Updated Forestry Replanting Specifications, Revised 3rd March 2018 shall be implemented in full, unless otherwise agreed in writing with the planning authority.

**Reason:** To mitigate the effects of the development on woodland and ensure provision of satisfactory compensatory planting.

9. 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 of abnormal loads will not have any detrimental effect on the trunk road network.

10. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the trunk road authority before delivery commences.

**Reason:** To ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

11. Prior to the commencement of any part of the development:
  - a) detailed proposals for undertaking trial runs and also delivery of abnormal indivisible loads, must be submitted for approval by the Planning Authority in consultation with Roads Authority. Details must include but not be limited to detailed proposals (1:200 drawing) of the temporary measures to be provided and the proposed access onto the C4L, temporary and permanent modifications and measures required to protect the public road and structures, traffic, vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e. outwith school crossing patrol times.
  - b) a Construction Traffic Management Plan (CTMP) must be submitted for approval by the Planning Authority in consultation with the Roads Authority. The traffic management plan must cover the duration of the development, methods of dealing with the large delivery vehicles. The plan shall also include, the methods of marshalling and manoeuvring at junctions on the public road network and any temporary traffic waiting restriction requirements and all modifications to the road network and traffic management arrangements. Routes for deliveries to and from the site and confirmations of routes not to be used by construction vehicles and workers to access the site.
  - c) details (1:200 scale drawing) of the proposed access junction onto the C4L (Bogmuchals - Berryhillock Road) must be submitted and approved by the Planning Authority in consultation with the Roads Authority. The width of the vehicular access shall be a minimum of 7.3m and have a maximum gradient of 1:20 measured for the first 25m from the edge of the public carriageway (B9010). The first 25 metres of the access shall be to The Moray Council specification and surfaced with hot rolled asphalt. Any existing ditch, watercourse or drain under the site access shall be piped

using a 300mm minimum diameter of pipe. The pipe shall be laid to a self-cleansing gradient.

- d) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land ) showing a visibility splay 4.5 metres by 160 metres and a schedule of maintenance for the area within the visibility splay shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority.
- e) detailed drawing(s) (scale 1:500) showing the location and design of 3 passing places at locations to be agreed with the Roads Authority. One approximately 50 -100m to the west of the proposed access onto the C4L to replace the existing passing place at the access onto the C4L. The second (to achieve a maximum passing place spaced of not more than 150m) to be located approx. 50 - 100m to the east of the proposed access onto the C4L. The third passing place to be located approx. 130-150m east of the existing passing place at Greenhill (to achieve a maximum spacing of not more than 150m between passing places).

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

**Reason:** To ensure an acceptable development in road safety terms through the provision of details currently lacking.

12. Prior to the commencement of construction and deliveries:

- a) Evidence that a S96 'Wear and Tear' agreement between the developer and the Roads Authority has been completed and signed by both parties, must be submitted to the Planning Authority. The scope of the agreement shall assess, monitor and address the impact of construction and delivery traffic on the road network for the duration of the construction of the development and must include all roads within the Moray Council area between the site access and the first 'A' class road along the agreed construction access route(s).
- b) Abnormal load trial run(s) must be undertaken after all mitigation works have been completed to confirm the works are acceptable and to identify any other restrictions not previously addressed and the frequency and location of abnormal load passing places/oncoming vehicle holding areas required. Representatives from Moray Council Transportation (Traffic), and Police Scotland must be invited to the trial run.
- c) Prior to any abnormal indivisible load being delivered to the site, all suspensive works approved through condition (1 a,b,c,d,e) required prior to commencement of construction, must be provided in accordance with the approved plans. Any works undertaken are to be permanent for the duration of the operation of the development unless otherwise agreed in writing with the Roads Authority.
- d) The visibility splay of 4.5m by 160m shall be provided and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

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

**Reason:** The provision of details currently lacking and in order to ensure that acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

13. At the reasonable request of the Council, as planning authority following receipt of any complaint where interference to domestic television reception is caused as a result of the development hereby approved, the applicant/developer/wind turbine operator shall take steps to make good the reception, either by eliminating the cause of the interference or by providing an alternative means by which television signals may be received. Within two (2) weeks of being notified by the Council, as planning authority of the existence of such interference (or within a longer period as the planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority for its approval, proposals to make good the reception, including the timescale(s) within which the proposals will be undertaken.

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

**Reason:** In accordance with the applicant's submitted particulars and in order to ensure that an alternative means of obtaining television reception can be achieved and/or mitigated in the event of interference caused to domestic television reception.

14. At the reasonable request of the Council, as planning authority following receipt of any complaint where interference to fixed link frequency band signals is caused as a result of the development hereby approved, the applicant/developer/wind turbine operator shall take steps to make good the fixed link frequency band signals, either by eliminating the cause of the interference or by providing an alternative means by which fixed link frequency band signals may be received. Within two (2) weeks of being notified by the Council, as planning authority of the existence of such interference (or within such longer period as the planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority for its approval proposals to make good the fixed link frequency band signals, including the timescale(s) within which the proposal shall be undertaken.

Thereafter, the proposals shall be carried out in accordance with the approved details.

**Reason:** In order to ensure that an alternative means of maintaining fixed link telecommunications infrastructure can be achieved and fixed promptly in the event of interference caused to existing fixed links.

15. The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
  - a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind

farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

- b) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- c) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (b), and such others as the independent consultant considers likely to result in a breach of the noise limits.
- d) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.
- e) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated

in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise emissions.

- f) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (c) above unless the time limit has been extended in writing by the Local Planning Authority.

**Table 1:** Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

LOCATION	Standardised wind speed at 10 meter height (m/s) within the site								
	4	5	6	7	8	9	10	11	12
Myreton	35.0	35.0	35.3	37.9	40.9	44.1	47.7	51.6	55.8
Clochmacreich	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Kintyward	35.0	35.0	36.2	39.1	41.9	44.6	47.0	48.9	50.0
Brambleburn Cottage	35.0	35.0	35.0	37.0	39.9	42.8	45.4	47.5	48.8
Over Windyhills	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Netherton of Windyhills	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Backies	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Upper Skeith	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Mid Skeith	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Little Skeith	35.0	35.0	36.2	39.1	41.9	44.6	47.0	48.9	50.0
Langley	35.0	35.0	35.0	37.0	39.9	42.8	45.4	47.5	48.8
Croylet	35.0	35.0	35.0	37.0	39.9	42.8	45.4	47.5	48.8

**Table 2:** Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

LOCATION	Standardised wind speed at 10 meter height (m/s) within the site								
	4	5	6	7	8	9	10	11	12
Myreton	40.0	40.0	40.0	40.0	40.0	40.0	42.2	47.2	52.9
Clochmacreich	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Kintyward	40.0	40.0	40.0	40.0	41.0	44.1	46.2	46.7	45.1
Brambleburn Cottage	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8
Over Windyhills	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Netherton of Windyhills	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7

<b>Backies</b>	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
<b>Upper Skeith</b>	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
<b>Mid Skeith</b>	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
<b>Little Skeith</b>	40.0	40.0	40.0	40.0	41.0	44.1	46.2	46.7	45.1
<b>Langley</b>	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8
<b>Croylet</b>	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8

**Table 3:** Coordinate locations of the properties listed in Tables 1 and 2.

<b>Myreton</b>	<b>349628</b>	<b>856425</b>
<b>Clochmacreich</b>	<b>349452</b>	<b>858035</b>
<b>Kintyward</b>	<b>351482</b>	<b>859347</b>
<b>Brambleburn Cottage</b>	<b>350969</b>	<b>856448</b>
<b>Over Windyhills</b>	<b>349264</b>	<b>856733</b>
<b>Netherton of Windyhills</b>	<b>349308</b>	<b>857282</b>
<b>Backies</b>	<b>349762</b>	<b>858923</b>
<b>Upper Skeith</b>	<b>349992</b>	<b>859109</b>
<b>Mid Skeith</b>	<b>350327</b>	<b>859293</b>
<b>Little Skeith</b>	<b>350937</b>	<b>859394</b>
<b>Langley</b>	<b>351560</b>	<b>856770</b>
<b>Croylet</b>	<b>350359</b>	<b>856276</b>

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

**Reason:** To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

- The wind farm operator shall employ an independent consultant, approved by the Planning Authority, to measure, at the operator's own expense, the level of noise emissions from the wind turbines within the first year of the operation of the turbines, and every two years thereafter, unless and until the Planning Authority extend the period or determine that continued compliance monitoring is no longer required. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the Planning Authority prior to commencement. The results of any measurement exercise shall be forwarded to the Planning Authority as soon as practicable after the completion of the monitoring exercise. Unless otherwise agreed with the Planning Authority the turbines shall be switched off during part of the monitoring period to permit reliable background noise level data to be determined at the range of wind speeds from 4 m/s to 12 m/s.

**Reason:** To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

- Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 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 public and bank 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 ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

18. A shadow flicker impact control module shall be installed prior to operation to both turbines 1 and 5 at the development, and in accordance with the details provided in Chapter 14.1.12 of the Environmental Statement (Volume1) by Amec Foster Wheeler and titled "Lurg Hill Wind Farm Environmental Statement".

For the sake of clarification, turbines 1 and 5 locations are identified in the supporting document by Amec Foster Wheeler and titled "Figure 3 Planning Application Site Layout Plan".

**Reason:** To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue shadow flicker.

19. At the reasonable request of the Planning Authority following a complaint the wind farm operator shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

**Reason:** To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue shadow flicker.

20. Air Traffic Control Radar: No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbines on air safety has been submitted to and approved by the local planning authority.

The Air Traffic Control Radar Mitigation Scheme is a scheme designed to mitigate the impact of the development on the operation of the Primary Surveillance Radar at RAF Lossiemouth ("the Radar") and the air traffic control operations of the Ministry of Defence (MOD) which is reliant upon the radar. The Air Traffic Control Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the radar and shall be in place for the operational life of the development provided the radar remains in operation.

No turbines shall become operational unless and until all those measures required by the approved Air Traffic Control Radar Mitigation Scheme to be implemented prior to the operation of the turbines have been implemented and the local planning authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Air Traffic Control Radar Mitigation Scheme.

**Reason:** To ensure that the operation of the turbines does not interfere with the proper operation of the radar systems at RAF Lossiemouth.

21. Aviation Lighting: The company shall install MOD accredited 25 candela omnidirectional aviation lighting OR infra-red warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest

practicable point on all turbines. The turbines shall be erected with this lighting installed and the lighting shall remain operational throughout the duration of the consent.

**Reason:** To give warning of the presence of the turbines in poor visibility or darkness.

#### 4. PLANNING APPLICATION 22/00385/APP

##### WARD 4: FOCHABERS AND LHANBRYDE

##### **Change of house types approved under ref 15/00244/APP on Plots 4-7 Ordiequish Road Fochabers Moray for Bob Milton Properties Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a change of house types approved under ref 15/00244/APP on Plots 4-7 Ordiequish Road Fochabers Moray for Bob Milton Properties Ltd.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as it proposes a change in house type on plots (4-7) on a development previously approved by Committee decision under application reference 15/00244/APP (for the erection of 49 dwelling houses on R1 Ordiequish Road, Fochabers).

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 22/00385/APP subject to the following conditions and reasons:

1. No development work shall commence on plots 4-7 until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit is to be connected to an appropriate electricity supply, including details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house.

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

2. Parking spaces shall be provided as shown on Drawing HT50/01/07d prior to the occupation or completion of each of the dwelling houses, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.



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

3. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

4. New boundary walls/fences shall be set back from the edge of the public carriageway at a distance of 2.0m.

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

5. Notwithstanding the submitted details no development works on plots 4-7 shall commence until details (plans and elevations including material specification) have been submitted to and approved in writing by the Council, as Planning Authority showing the precise location and design of the 600mm boundary wall to be provided on the south and east boundaries of plot 7 which should be match the wall details of plot 8 (application reference 21/01487/APP). Thereafter the development must be carried out in accordance with the agreed details.

**Reason:** In order to provide details currently lacking and in order to ensure an acceptable form of development.

6. Notwithstanding the submitted details no development works on plots 4-7 shall commence until a detailed landscape plan including species specifications, location, heights and timescale for all planting has been submitted to and approved in writing by the Council as Planning Authority. On-plot species shall be a minimum of 1.5m in height at the time of planting. Thereafter the development must be carried out in accordance with the agreed details.

**Reason:** In order to provide details currently lacking and in order to ensure an acceptable form of development.

## **5. PLANNING APPLICATION 21/02008/APP**

### **WARD 1: SPEYSIDE GLENLIVET**

#### **Demolish 2 no agricultural sheds and erect 2 no whisky storage warehouses at Viewfield Farm Craigellachie Aberlour Moray for Caley Casks**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application to demolish 2 no agricultural sheds and erect 2 no whisky storage warehouses at Viewfield Farm Craigellachie Aberlour Moray for Caley Casks.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is for a site with an area of 2 or more hectares.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 21/02008/APP subject to the following conditions and reasons:

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

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

2. Unless otherwise agreed with the Council, as Planning Authority, in consultation with the Environmental Health Manager, the use of the development shall only be permitted between the hours of 0800 to 1630 hours Monday to Thursday and 0800 to 1230 on a Friday.

**Reason:** To protect local residents from noise nuisance in ensuring the use of the development within permitted hours.

3. The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB(A) at the nearest noise sensitive dwelling. The background sound level has been determined as an L A 90 (15 mins) of 41 DB, as stated in page 10 of the Noise Impact Assessment supporting document by FEC Acoustics, dated 13 May 2022, and titled "Noise Impact Assessment for the proposed additional cask storage at Viewfield farm, Craigellachie. 21/02008/APP". For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142:2014 Methods for rating and assessing industrial and commercial sound.

**Reason:** To protect local residents from noise nuisance by limiting noise emissions from the use of the development.

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

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

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

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

6. The surface water drainage arrangements for the development shall be provided and maintained in accordance with the approved Drainage Impact Assessment GC222703 Rev 2 and associated appendices A, B, C and D prepared by Blyth and Blyth, unless otherwise agreed by the Council, as Planning Authority. These shall be installed and operational prior to the first use of the buildings hereby approved.

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

7. Unless otherwise agreed in writing, no development shall commence until details of a landscaping scheme have been submitted to, and approved in writing by the Council, as Planning Authority. This shall be closely based on the Site Plan (PL02) approved as part of this application and include the following information:-
  - i. Details of landscaping strips to be provided along the northern boundary;
  - ii. Details of additional landscaping strips/groupings along the upper part of the bank between the entrance to the site and northern boundary and supplementary planting along the northeast boundary;
  - iii. Details of all soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree, shrub and wild flower area, planting densities and bird boxes. (For avoidance of doubt this shall only be native species trees, shrubs and wild flowers, and trees must be at least 1.5m in height); and
  - iv. Details of the design, including materials, of any proposed retaining walls.

The landscaping works shall be carried out in accordance with the approved scheme.

All planting and seeding as may be comprised in the approved details shall be carried out in the first planting and seeding season following the completion of development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** In order to ensure an acceptable level of planting in the interests of the biodiversity, amenity and appearance of the surrounding countryside.

8. 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 details of an external lighting scheme for the development (if proposed or required). The lighting 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; and
  - c) include the location and design specifications (including both candela and lux rating information) for all lighting to be installed and the time-periods for operation together with specifications for all mitigation measures to be introduced and designed to minimise the impact of lighting within and

beyond the site boundary (for example, light hoods and louvres, orientation and angle of downward inclination of lamps, self-dimming lights, etc.)

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

**Reason:** Details of the matters specified are lacking from the applicant's submission and to ensure an acceptable form of development in particular to minimise the potential for light pollution disturbance upon the visual amenity of the surrounding area and nearby residential properties.

9. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include as a minimum the following information:
- duration of works;
  - construction programme;
  - anticipated schedule for delivery of materials and plant;
  - full details of the construction traffic route from the A95 Granish - Keith Trunk Road to the site, including routes to be used for the disposal of any materials from the site;
  - measures to be put in place to safeguard the movements of pedestrians;
  - areas identified for parking, delivery loading and unloading, storage of materials;
  - measures to be put in place to prevent material being deposited on the public road;
  - traffic management measures to be put in place during works and any specific instructions to drivers.

Thereafter, the development works shall proceed in accordance with the approved details, unless otherwise approved in writing by the Council, as Planning Authority in consultation with the Roads Authority.

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site through the provision of details currently lacking.

10. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) 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 protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours

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

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

## 6. PLANNING APPLICATION 19/01510/APP

### WARD 4: FOCHABERS AND LHANBRYDE

**Proposed residential development for the construction of 70 units (48no private/22 affordable) including associated drainage and infrastructure including the widening of Pitgaveny Road and the formation of a new junction onto Calcots Road at R13 Lesmurdie Fields Elgin Moray for Robertson Homes**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a proposed residential development for the construction of 70 units (48no private/22 affordable) including associated drainage and infrastructure including the widening of Pitgaveny Road and the formation of a new junction onto Calcots Road at R13 Lesmurdie Fields Elgin Moray for Robertson Homes.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application was previously considered by the Planning and Regulatory Services Committee in October 2020, but following a specific request from the applicant, the committee agreed in August 2021 to allow the application to be revised and re-assessed at a further committee. In addition, the application is a major development as defined under the Hierarchy Regulations 2009 for a development of more than 50 houses, and the site exceeds 2ha.

During his introduction, Mr MacPherson, Principal Planning Officer advised that a late consultation response had been received from Scottish and Southern Electricity with standard advice in relation to the proximity of the development to overhead power lines however this had been covered in Condition 2 and the advice forwarded to the Application. Furthermore, in relation to tree protection and retention, Condition 3 should be removed as this is covered in Condition 29

During discussion surrounding the provision of a play park, it was queried who is responsible for the long term maintenance of the play park once it is completed.

In response, Mr MacPherson advised that it would be the responsibility of the Developer to maintain the play park and suggested an addition to Condition 9 and 28 to include details of long term maintenance of the play park. This was agreed.

During further discussion surrounding the provision of play equipment in the pocket play park, it was asked that a substantial piece of play equipment be provided suitable for mobility impaired users.

In response, the Mr MacPherson suggested that an informative be included to ask for the provision of one or more substantial pieces of play equipment that can be

accessed and used by mobility impaired users. This was agreed.

With regard to the proposed provision of cycle storage, it was noted that the current policy states that there should be cycle storage for 1 cycle per 1 bedroom flat however it was recognised that there could be 2 cycle users living in the flat therefore it was asked if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Mr MacPherson agreed to amend condition 4 to include the provision of storage for at least 2 cycles per flat.

Thereafter, the Committee agreed to grant planning permission in relation to Planning Application 19/01510/APP subject to the conditions detailed within the report subject to:

- The removal of condition 3 as this is covered in condition 29;
  - An amendment to condition 9 and 28 to include details of long term maintenance of the play park
  - The inclusion of an informative to ask for the provision of one or more substantial pieces of play equipment that can be accessed and used by mobility impaired users.
  - An amendment to condition 4 to include the provision of storage for at least 2 cycles per flat
  - The completion of a Section 75 legal agreement regarding developer obligations relating to healthcare prior to the issue of consent
  - The following conditions and reasons:
1. Unless otherwise agreed in writing with the Council, as Planning Authority, the development shall include a total of 18 affordable house units and a minimum of 6 accessible units. The 18 affordable units shall be provided no later than upon completion of the 40<sup>th</sup> house unit upon the site.  
  
**Reason:** In order to avoid any ambiguity regarding the terms of the consent, and to confirm the number of affordable and accessible housing units to be developed.
  2. No trees which would lie within the pylon wayleave area as show on the approved landscaping drawing Landscape Proposal (sheet 1 of 5) drawing number 95.64.01d shall be planted, and in their place shrubs or bushes shall be planted using specimens already selected for use elsewhere in the development.  
  
**Reason:** In order to ensure no tree planting interferes with the necessary clearance required for overhead pylons.
  3. Prior to occupation of the cottage flats as shown on the Site Layout Drawing No. 1125-ARC-004 F), the submitted secure cycle store design (drawing number LES-CS-001) shall be completed and located close to the flats. The secure bicycle store must thereafter be built in accordance with the approved design and arrangements be put in place to provide a key or code entry for all flat occupants. The cycle storage shall be retained and maintained in perpetuity as cycle parking for use in conjunction with the flats.  
  
**Reason:** In order to ensure secure cycle storage for the flats is provided.

4. Notwithstanding the following details which have been submitted but are not accepted. No development shall commence until revised details have been submitted and approved in writing by the Planning Authority in consultation with the Roads Authority to address the following:
  - a) Continuation of a 2 metre wide footway from Plot 18 south and west to connect with the layby to the south of plot 18 and the provision of a dropped kerb crossing to access the footway to the south in front of plots 41/42.
  - b) Revised details for the proposed road narrowing taper to the east of the site access on the north side of Pitgaveny Road.
  - c) Provision of a 3 metre cycle path in place of the proposed 2 metre footpath on the south side of Pitgaveny Road from the site access junction eastwards in front of plots 43-48.

Thereafter the development shall be completed in accordance with the approved details. The altered or continued pathways shall be provided prior to the occupation of the adjoining plots they lie in front of.

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

5. Notwithstanding the Road Safety Audit submitted (which is based on an previous site layout and is not accepted), no development shall commence until a Stage 1/2 Road Safety Audit for the proposed internal roads and the extents of any proposed works to the public road and footpaths and cycle paths outwith the site boundary, shall be undertaken and the proposed site layout and roads shall be revised to include any mitigation required to address road safety issues. The Road Safety Audit and revised site layout shall be submitted for approval by the Planning Authority in consultation with the Roads Authority.

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

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

6. No development shall commence until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority;
  - a) Details (Plans scale 1:500 min and calculations) for the roads drainage to accommodate alterations to Pitgaveny Road and Calcots Road;
  - b) Details (Plans scale 1:500 min) showing the requirements for any changes to the existing speed limits and relocation or provision of speed limit signage;
  - c) Written confirmation that a street lighting scheme design has been agreed with the Roads Authority;
  - d) Details (Plans scale 1:500 min) showing site access visibility splays (4.5m x 43m) in each direction at all proposed site accesses onto Pitgaveny Road (U37E).

Thereafter prior to commencement of any other part of the development, the following shall be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority in consultation with the

Roads Authority and the development shall be progressed in accordance with the approved details:

- All works to widen Pitgaveny Road.
- All works to provide the off-site cycle paths between the site and Lesmurdie Road.
- All works to form the new Pitgaveny Road/Calcots Road junction.
- All works required to implement changes to the speed limits.

**Reason:** The provision of details lacking from the current submission in the interests of road safety and to ensure acceptable infrastructure is provided at the appropriate stage of the development in the interests of road safety.

7. No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to confirm the arrangements for future adoption/vesting by an in-perpetuity regulatory body, of the maintenance and management of the roads SUDs system excluding any other parts of the SUDs system to be identified by the Roads Authority which is to be maintained by or factored on behalf of the developer or their successors.

**Reason:** To ensure the management and maintenance of effective roads drainage and surface water management infrastructure proposed for the site.

8. No development shall commence until details have been submitted to confirm the maintenance/ factoring arrangements for all landscaped areas including those adjacent to the public road (including footways and cycle paths, verges, and service strips but excluding residential plot boundaries). Thereafter the landscaping shall be maintained in accordance with the approved arrangements and it must be ensured that landscaping will not interfere with the function of the public road or cause a hazard to road users. All landscaping must be completed and planted no later than the first planting season following completion of all the houses.

**Reason:** In the interests of road safety and to ensure the amenity and maintenance of the site landscaping is provided.

9. Notwithstanding the details shown on Drawing 1125-ROB-001 "Route of Build" (which is not accepted), no works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- a) duration of works;
  - b) construction programme;
  - c) anticipated schedule for delivery of materials and plant;
  - d) details of any temporary construction access onto the public road;
  - e) details of the route(s) of construction traffic between the site and the nearest 'A' Class road(s)
  - f) measures to be put in place to prevent material being deposited on the public road;
  - g) measures to be put in place to safeguard the movements of pedestrians;
  - h) traffic management measures to be put in place during works including any specific instructions to drivers; and
  - i) parking provision, loading and unloading and turning areas for construction traffic.



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

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

10. No house or flat shall be occupied until the EV charging infrastructure associated with the parking for the unit has been provided and made available for connection of an EV charging unit.  
Thereafter the development shall be completed in accordance with the approved details.

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

11. Bin storage compounds must be designed in accordance with the design on Bin storage drawing 1125(PL)DET-01 and be provided for prior to the occupation of the associated flats.

**Reason:** To ensure the bin storage is provided timeously.

12. Visibility splays of 4.5 metres by 43 metres in both directions at all site access onto Pitgaveny Road shall be provided and maintained clear of any obstruction above 0.26 metres in height, measured from the level of the carriageway.

**Reason:** To ensure acceptable visibility is provided and maintained for road users at all times in the interests of road safety.

13. Parking provision shall be provided in accordance with the site layout (Drawing No. 1125-ARC-014) with 1 space for 1 bed houses/flats, 2 spaces for 2/3 bed houses/flats and 3 spaces for 4 or more bed houses/flats.  
Thereafter no house or flat shall be occupied until parking has been provided and made available for use by that house or flat. Thereafter the parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved.

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

14. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam unless otherwise agreed with the Council, as Planning Authority in consultation with the Roads Authority.

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

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

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

16. Permitted development rights shall be removed from service strips along plot frontages and no amendments to planting within these areas shall be permitted. Specifically permitted development rights within Part 1 & 2, Classes 1 - 8 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended and inclusive of any additional domestic permitted rights introduced in the future.

**Reason:** To ensure an acceptable form of development and effective roads drainage infrastructure is provided and safeguarded.

17. Unless otherwise agreed in writing, no development shall commence until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the site 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 on the site 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 remedial measures.

Thereafter, no development shall commence (other than those works required to investigate and remediate contamination on the site) until written confirmation has been issued by the Council, as Planning Authority that the works have been implemented and completed in accordance with the agreed details.

**Reason:** To ensure that the site is suitable for the proposed use, and that risks to the wider environment and to users of neighbouring land from on-site contamination are appropriately assessed and managed.

18. Prior to development commencing a compliance statement, showing detailed plans/information of full compliance with the Accessible Housing Guidance note contained on pages 41-42 of Moray Local Development Plan 2020 must be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the accessible units as identified drawing 1125-ARC-012 A Accessible Housing must be built in accordance with the approved compliance statement.

**Reason:** To ensure the identified house units meet the required standard and design features to fulfil the accessible housing need for the development.

19. Prior to occupation of the first dwelling, the specific details and timing for provision of the four public art bespoke carved benches and associated information boards indicated at the locations shown on approved plan 'Public Art' 1125-ARC-015 must be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the benches installed shall be maintained and if so instructed by Moray Council, made safe and replaced with another bench of a design and material approved by Moray Council.

**Reason:** In order that consideration can be given to the specific design of park benches to be provided.

20. The recommended ecological mitigation must be carried out in accordance with approved Biodiversity Plan 1125-ARC-016 dated May 2022, the GLM Ecology Ecological Assessment for Lesmurdie dated August 2019 para 1.18 and 2.22 and GLM Ecology Bat Survey Report 'Trees to be Felled, Lesmurdie' September 2021 para 1.12. There after the measures must be adhered to prior to and during construction unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** In order to ensure the appropriate mitigation is undertaken to protect wildlife upon the site.

21. Unless otherwise agreed in writing, the roof tile finish for all the detached garages within the development shall match that approved tile colour upon the roof of the dwelling which it shares a plot with.

**Reason:** In order to ensure the proposed garages conform the colours of each of the character areas.

22. 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 occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details. The programme of works will include an archaeological evaluation of 7-10% of the development site.

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

23. Prior to development commencing, a revision to the capacity of the soakaways lying south of Pitgaveny Road shall be submitted to and approved by the Council as Planning Authority (in consultation with Moray Flood Risk

Management). This shall detail the capacity of the soakaways increased to 384 m<sup>3</sup> storage volume in line with the submitted and approved Drainage Impact Assessment.

**Reason:** In order to avoid any ambiguity relating to the design and capacity of surface water drainage infrastructure.

24. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) 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:** In order to ensure the development does not cause unnecessary nuisance or disturbance and loss of amenity to neighbouring residences.

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

**Reason:** In order to control certain construction activities so as to ensure the development does not cause unnecessary nuisance or disturbance and loss of amenity to neighbouring residences.

26. Unless otherwise agreed in writing, no housing unit shall be occupied until details and timing of the provision of compensatory trees planting (beyond any landscaping and structural planting hereby approved) has been submitted to and approved by Moray Council. This final area, composition and location of the compensatory shall be commensurate to the removal of the loss of trees within the approved Tree removal plans drawing 1-4c identified throughout the site, inclusive of the felling of 0.2 hectares of scots pine at the southern end of the site. Any trees that die, are become damaged within the first 5 years following planting must be replaced with trees or comparable girth and species to when they were planted.

**Reason:** In order to ensure the permanent loss of trees resulting from the development is replaced with appropriate planting elsewhere.

27. Prior to development commencing the final design and selection of play equipment for the pocket park must be submitted to and approved by Moray Council. Notwithstanding the layout and equipment shown in the submitted pocket park play area, at least one piece of play equipment must be changed for a design that accommodates mobility impaired users. Thereafter the park must be built in accordance with the approved details. Unless otherwise agreed with the Council as Planning Authority, the play park must be provided no later than following completion of the 40<sup>th</sup> house in the development.

**Reason:** In order to ensure the proposed play park meets the needs of all users and is provided at the appropriate stage in the development.

28. Unless otherwise agreed with the Council as Planning Authority, all tree felling must be carried out in accordance with the approved Tree Removal Plans drawing 1-4c. Also works and mitigation must accord with the Tree Protection Plan hereby approved on drawing numbered 1 - 4 D.

**Reason:** In order to ensure the removal and protection of trees is carried out in accordance with the submitted details.

29. Unless otherwise agreed in writing with the Council as Planning Authority, prior to development commencing details of the timing of the provision of the feature stone walls referred to the Placemaking Statement May 2022 to be constructed upon the site shall be agreed in writing with the Council.

**Reason:** In order to ensure to ensure the timeous provision of stone walls which will add to the amenity and appearance of the site.

## **7. PLANNING APPLICATION 21/01217/APP**

### **WARD 8: FORRES**

#### **Substitution of house types at plots Nos 267 296 298 to 303 (as per application 18/01142/APP) and renumber plots to 406-416 R2 Ferrylea Forres Moray for Springfield Properties PLC**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a substitution of house types at plots Nos 267 296 298 to 303 (as per application 18/01142/APP) and renumber plots to 406-416 R2 Ferrylea Forres Moray for Springfield Properties PLC.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal had previously been reported to Committee and the Appointed Officer considers that significant implications of this proposal in conjunction with 18/01142/APP have been made for Committee to reconsider the development.

With regard to the proposed provision of cycle storage it was asked, for consistency with other planning applications, if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Mr Miller agreed to amend condition 3 to include the provision of storage for at least 2 cycles per flat.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 21/01217/APP subject to:

- a modification of the existing legal agreement attached to planning permission ref 18/01142/APP (as permitted under appeal decision notice PPA-300-2057) prior to the issue of consent; and

- the following conditions and reasons with an amendment to condition 3 to include the provision of storage for at least 2 cycles per flat:
1. The development hereby granted planning permission forms part of, and is related to, a development granted planning permission under formal planning appeal decision notice PPA-300-2057 by the Planning and Environmental Appeals Division, Scottish Government dated 2 July 2020 wherein:
    - a. the terms and conditions as attached to the permission granted under that decision notice are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, namely conditions 1, 4, 5, 17-20, including any details already approved thereunder to discharge the requirements of those conditions; and
    - b. no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 298 – 303 (now identified under this permission as plots 406 – 414).

**Reason:** To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented on plots 298 – 303 (now identified as plots 406 – 414).

2. Prior to any development commencing and notwithstanding the details shown on the approved plans, a scheme of external material finishes of the houses and flats that match those of consented neighbouring plots shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

**Reason:** To ensure suitable material finishes to each plot, in the interests of the character of the development in which the house plots sit.

3. Notwithstanding the details shown for Plots 406-413 (which are not accepted) no development shall commence until details (Location and Design plans) have been submitted for approval by the Planning Authority in consultation with the Roads Authority showing the provision of secure cycle parking facilities at a rate of not less than 2 spaces per flat. Thereafter the cycle parking shall be provided prior to completion of the associated flats and retained and maintained for that purpose unless otherwise agree in writing by the Planning Authority in consultation with the Roads Authority.

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

4. Notwithstanding the details submitted. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit and infrastructure; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the completion of the dwelling house.

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

5. Parking provision for houses shall be provided at the following rates:
- 1 Bedroom = 1 space
  - 2 -3 Bedrooms = 2 spaces
  - 4 or more bedrooms = 3 spaces

Parking shall be provided prior to the completion of each house which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

7. The landscaping as shown in drawing number MO01-1\_Remix\_SL\_13 Rev A hereby approved shall be provided by no later than the first planting season after completion or first occupation of the respective house plot/block of flats to which the landscaping relates (whichever is the soonest). Any trees, shrubs and hedge plantings 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, number and spacing unless the Planning Authority gives written consent to any variation of this condition.

**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 amenity, appearance, character and quality of the development and the surrounding area.

8. That all natural habitat creation measures identified in the approved document "Forres Bat and Bird Boxes" shall be provided on their respective house prior to its occupation or completion (whichever is the soonest) and retained in perpetuity unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** In order to ensure timeous delivery of biodiversity enhancement measures.

9. No development shall commence until a scheme for the provision of a communal bin storage area for flatted properties in the development has been submitted to and approved in writing by the Planning Authority. Thereafter, no

flats shall be brought into use unless they are served by the bin storage facilities as approved under this condition for their respective block.

**Reason:** In order to ensure the flatted properties are served by suitable recycling and refuse facilities.

## **8. PLANNING APPLICATION 21/01350/APP**

### **WARD 8: FORRES**

#### **Substitution of plots and residential development on site at R2 Ferrylea Forres Moray for Springfield Properties PLC**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a substitution of plots and residential development on site at R2 Ferrylea Forres Moray for Springfield Properties PLC.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal had previously been reported to Committee and the Appointed Officer considers that significant implications of this proposal in conjunction with 18/01142/APP have been made for Committee to reconsider the development.

With regard to the proposed provision of cycle storage it was asked, for consistency with other planning applications, if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Mr Miller agreed to amend condition 4 to include the provision of storage for at least 2 cycles per flat.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 21/01350/APP subject to:

- a modification of the existing legal agreement attached to planning permission ref 18/01142/APP (as permitted under appeal decision notice PPA-300-2057) prior to the issue of consent; and
  - the following conditions and reasons with an amendment to condition 4 to include the provision of storage for at least 2 cycles per flat
1. The development hereby granted planning permission forms part of, and is related to, a development granted planning permission under formal planning appeal decision notice PPA-300-2057 by the Planning and Environmental Appeals Division, Scottish Government dated 2 July 2020 wherein:
    - a. the terms and conditions as attached to the permission granted under that decision notice are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, namely conditions 4, 5, 17-20, including any details already approved thereunder to discharge the requirements of those conditions; and
    - b. no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 167, 171 – 174, 196 – 203 (now identified under this permission as plots 417 – 426).



**Reason:** To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented on plots 167, 171 – 174, 196 – 203 (now identified as plots 417 – 426).

2. Prior to any development commencing and notwithstanding the details shown on the approved plans, a scheme of external material finishes of the houses and flats that match those of consented neighbouring plots shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

**Reason:** To ensure suitable material finishes to each plot, in the interests of the character of the development in which the house plots sit.

3. Prior to the commencement of development details of the affordable housing specification for plots 425 - 442 shall be submitted to and approved in writing by the planning authority regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site. Thereafter the development shall be implemented in accordance with the approved details.

**Reason:** to ensure 25% of the residential units approved across the wider site in which this development sits are affordable and managed accordingly.

4. Notwithstanding the details shown for cycle parking (the proposed bike locker detail does not match the cycle parking shown on plans) no development shall commence until details (Location and Design) have been submitted for approval by the Planning Authority in consultation with the Roads Authority showing the provision of secure covered cycle parking facilities at a rate of not less than 2 spaces per flat. Thereafter the cycle parking shall be provided prior to completion of the associated flats and retained and maintained for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

5. Notwithstanding the details submitted. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit and infrastructure; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the completion of the dwelling house.

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

6. Parking provision for houses shall be provided at the following rates:

- 1 Bedroom = 1 space
- 2 -3 Bedrooms = 2 spaces
- 4 or more bedrooms = 3 spaces

Parking shall be provided prior to the completion of each house which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

7. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

8. The landscaping as shown in drawing numbers MO01-1\_Remix\_SL\_23-1 Rev A, MO01-1\_Remix\_SL\_23-2 Rev A and MO01-1\_Remix\_SL\_23 Rev C hereby approved shall be provided by no later than the first planting season after completion or first occupation (whichever is the soonest) of the respective house plot/block of flats to which the landscaping relates. Any trees, shrubs and hedge plantings 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, number and spacing unless the planning authority gives written consent to any variation of this condition.

**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 amenity, appearance, character and quality of the development and the surrounding area.

9. No development shall commence unless a plan showing the location of all natural habitat creations, as indicated in the submitted document "Forres Bird and Bat Boxes" has been submitted and approved in writing by the Council, as Planning Authority. This plan shall also include timing for provision of the respective measures. Thereafter the natural habitat creations shall be provided and retained in accordance with the approved details unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** In order to agree the position of the biodiversity measures and ensure they are provided timeously.

10. No development shall commence until a scheme for the provision of a communal bin storage area for flatted properties in the development has been

submitted to and approved in writing by the planning authority. Thereafter, no flats shall be brought into use unless they are served by the bin storage facilities as approved under this condition for their respective block.

**Reason:** In order to ensure the flatted properties are served by suitable recycling and refuse facilities.

## **9. PLANNING APPLICATION 21/01717/APP**

### **WARD 8: FORRES**

#### **Substitution of house types at plots nos 156-160 204-211 246 247 and 257-259 renumbered 443-454 Phase 3 (as per application 18/01142/APP) R2 Ferrylea Forres Moray for Springfield Properties PLC**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a substitution of house types at plots nos 156-160 204-211 246 247 and 257-259 renumbered 443-454 Phase 3 (as per application 18/01142/APP) R2 Ferrylea Forres Moray for Springfield Properties PLC.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal had previously been reported to Committee and the Appointed Officer considers that significant implications of this proposal in conjunction with 18/01142/APP have been made for Committee to reconsider the development.

With regard to the proposed provision of cycle storage it was asked, for consistency with other planning applications, if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Mr Miller agreed to amend condition 3 to include the provision of storage for at least 2 cycles per flat.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 21/01717/APP subject to:

- a modification of the existing legal agreement attached to planning permission ref 18/01142/APP (as permitted under appeal decision notice PPA-300-2057) prior to the issue of consent; and
  - the following conditions and reasons with an amendment to condition 3 to include the provision of storage for at least 2 cycles per flat
1. The development hereby granted planning permission forms part of, and is related to, a development granted planning permission under formal planning appeal decision notice PPA-300-2057 by the Planning and Environmental Appeals Division, Scottish Government dated 2 July 2020 wherein:
    - a. the terms and conditions as attached to the permission granted under that decision notice are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, namely conditions 4, 5, 17-20, including any details already approved thereunder to discharge the requirements of those conditions; and
    - b. no part of the development as hereby granted shall be exercised in

conjunction with, or in addition to, the building design and plot layout details already approved for plots 156 – 160 and 204 - 211 (now identified under this permission as plots 443 – 452).

**Reason:** To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented on plots 156 – 160 and 204 – 211 (now identified as plots 443 – 452).

2. Prior to any development commencing and notwithstanding the details shown on the approved plans, a scheme of external material finishes of the houses and flats that match those of consented neighbouring plots shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

**Reason:** To ensure suitable material finishes to each plot, in the interests of the character of the development in which the house plots sit.

3. No development shall commence until details (Location and Design plans) have been submitted for approval by the Planning Authority in consultation with the Roads Authority showing the provision of secure cycle parking facilities at a rate of not less than 2 spaces per flat. Thereafter the cycle parking shall be provided prior to completion of the associated flats and retained and maintained for that purpose unless otherwise agree in writing by the Planning Authority in consultation with the Roads Authority.

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

4. Notwithstanding the details submitted. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit and infrastructure; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the completion of the dwelling house.

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

5. Parking provision for houses shall be provided at the following rates:
  - 1 Bedroom = 1 space
  - 2 -3 Bedrooms = 2 spaces
  - 4 or more bedrooms = 3 spaces

Parking shall be provided prior to the completion of each house which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

7. The landscaping as shown in drawing numbers MO01-1\_Remix\_SL\_42 Rev A and MO01-1\_Remix\_SL\_43 Rev A hereby approved shall be provided by no later than the first planting season after completion or first occupation (whichever is the soonest) of the respective house plot/block of flats to which the landscaping relates. Any trees, shrubs and hedge plantings 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, number and spacing unless the Planning Authority gives written consent to any variation of this condition.

**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 amenity, appearance, character and quality of the development and the surrounding area.

8. No development shall commence unless a plan showing the location of all natural habitat creations, as indicated in the submitted document "Forres Bird and Bat Boxes" has been submitted and approved in writing by the Council, as Planning Authority. This plan shall also include timing for provision of the respective measures. Thereafter the natural habitat creations shall be retained unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** In order to agree the position of the biodiversity measures and ensure they are provided timeously.

9. No development shall commence until a scheme for the provision of a communal bin storage area for flatted properties in the development has been submitted to and approved in writing by the Planning Authority. Thereafter, no flats shall be brought into use unless they are served by the bin storage facilities as approved under this condition for their respective block.

**Reason:** In order to ensure the flatted properties are served by suitable recycling and refuse facilities.

## **10. PLANNING APPLICATION 21/01801/APP**

### **WARD 8: FORRES**

**Substitution of house types on Plots 455-466 Phase 3 (as per application 18/01142/APP) at R2 Ferrylea Forres Moray for Springfield Properties PLC**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a substitution of house types on Plots 455-466 Phase 3 (as per application 18/01142/APP) at R2 Ferrylea Forres Moray for Springfield Properties PLC

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal had previously been reported to Committee and the Appointed Officer considers that significant implications of this proposal in conjunction with 18/01142/APP have been made for Committee to reconsider the development.

With regard to the proposed provision of cycle storage it was asked, for consistency with other planning applications, if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Mr Miller agreed to amend condition 3 to include the provision of storage for at least 2 cycles per flat.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 21/01801/APP subject to:

- a modification of the existing legal agreement attached to planning permission ref 18/01142/APP (as permitted under appeal decision notice PPA-300-2057) prior to the issue of consent; and
  - the following conditions and reasons with an amendment to condition 3 to include the provision of storage for at least 2 cycles per flat
1. The development hereby granted planning permission forms part of, and is related to, a development granted planning permission under formal planning appeal decision notice PPA-300-2057 by the Planning and Environmental Appeals Division, Scottish Government dated 2 July 2020 wherein:
    - a. the terms and conditions as attached to the permission granted under that decision notice are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, namely conditions 1, 4, 5, 17-20, including any details already approved thereunder to discharge the requirements of those conditions; and
    - b. no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 136 – 155 (now identified under this permission as plots 455 – 466).

**Reason:** To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented on plots 136 – 155 (now identified as plots 455 – 466).
  2. Prior to any development commencing and notwithstanding the details shown on the approved plans, a scheme of external material finishes of the houses and flats that match those of consented neighbouring plots shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

**Reason:** To ensure suitable material finishes to each plot, in the interests of the character of the development in which the house plots sit.

3. Notwithstanding the details shown for Plots 445-458 and 461-466 (which are not accepted) no development shall commence until details (Location and Design plans) have been submitted for approval by the Planning Authority in consultation with the Roads Authority showing the provision of secure cycle parking facilities at a rate of not less than 2 spaces per flat. Thereafter the cycle parking shall be provided prior to completion of the associated flats and retained and maintained for that purpose unless otherwise agree in writing by the Planning Authority in consultation with the Roads Authority.

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

4. Notwithstanding the details submitted. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit and infrastructure; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the completion of the dwelling house.

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

5. Parking provision for houses shall be provided at the following rates:
  - 1 Bedroom = 1 space
  - 2 -3 Bedrooms = 2 spaces
  - 4 or more bedrooms = 3 spaces

Parking shall be provided prior to the completion of each house which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

7. The landscaping as shown in drawing numbers MO01-1\_Remix\_SL\_53 hereby

approved shall be provided by no later than the first planting season after completion or first occupation (whichever is the soonest) of the respective house plot/block of flats to which the landscaping relates. Any trees, shrubs and hedge plantings 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, number and spacing unless the Planning Authority gives written consent to any variation of this condition.

**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 amenity, appearance, character and quality of the development and the surrounding area.

8. No development shall commence until a scheme for the provision of a communal bin storage area for flatted properties in the development has been submitted to and approved in writing by the Planning Authority. Thereafter, no flats shall be brought into use unless they are served by the bin storage facilities as approved under this condition for their respective block.

**Reason:** In order to ensure the flatted properties are served by suitable recycling and refuse facilities.

## **11. PLANNING APPLICATION 21/01821/APP**

### **WARD 8: FORRES**

#### **Substitution of house types at plots nos 467- 482 on Phase 3 (as per application 18/01142/APP) at R2 Ferrylea Forres Moray for Springfield Properties PLC**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a substitution of house types at plots nos 467- 482 on Phase 3 (as per application 18/01142/APP) at R2 Ferrylea Forres Moray for Springfield Properties PLC

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal had previously been reported to Committee and the Appointed Officer considers that significant implications of this proposal in conjunction with 18/01142/APP have been made for Committee to reconsider the development.

With regard to the proposed provision of cycle storage it was asked, for consistency with other planning applications, if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Mr Miller agreed to amend condition 3 to include the provision of storage for at least 2 cycles per flat.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 21/01821/APP subject to:



- a modification of the existing legal agreement attached to planning permission ref 18/01142/APP (as permitted under appeal decision notice PPA-300-2057) prior to the issue of consent; and
  - the following conditions and reasons with an amendment to condition 3 to include the provision of storage for at least 2 cycles per flat
1. The development hereby granted planning permission forms part of, and is related to, a development granted planning permission under formal planning appeal decision notice PPA-300-2057 by the Planning and Environmental Appeals Division, Scottish Government dated 2 July 2020 wherein:
    - a. the terms and conditions as attached to the permission granted under that decision notice are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, namely conditions 1, 4, 5, 17-20, including any details already approved thereunder to discharge the requirements of those conditions; and
    - b. no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 230 - 245 (now identified under this permission as plots 467 - 482).

**Reason:** To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented on plots 298 – 303 (now identified as plots 406 – 414).

2. Prior to any development commencing and notwithstanding the details shown on the approved plans, a scheme of external material finishes of the houses and flats that match those of consented neighbouring plots shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

**Reason:** To ensure suitable material finishes to each plot, in the interests of the character of the development in which the house plots sit.

3. No development shall commence until details (Plans 1:200 min) have been submitted and approved by the Planning Authority in consultation with the Roads Authority which show the location and design of secure covered cycle storage to be provided at a rate of 2 spaces per flat. Thereafter the development shall be completed in accordance with the approved details and parking provision for houses shall be provided at the following rates:

- 1 Bedroom = 1 space
- 2-3 Bedrooms = 2 spaces
- 4 or more bedrooms = 3 spaces
- Minimum of 2 secure and covered cycle spaces per flat.

Parking shall be provided prior to the completion of each flat which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

5. The landscaping as shown in drawing numbers MO01-1\_Remix\_SL\_63 hereby approved shall be provided by no later than the first planting season after completion or first occupation (whichever is the soonest) of the respective house plot/block of flats to which the landscaping relates. Any trees, shrubs and hedge plantings 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, number and spacing unless the Planning Authority gives written consent to any variation of this condition.

**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 amenity, appearance, character and quality of the development and the surrounding area.

6. No development shall commence until a scheme for the provision of a communal bin storage area for flatted properties in the development has been submitted to and approved in writing by the Planning Authority. Thereafter, no flats shall be brought into use unless they are served by the bin storage facilities as approved under this condition for their respective block.

**Reason:** In order to ensure the flatted properties are served by suitable recycling and refuse facilities.

## **12. PLANNING APPLICATION 20/00781/APP**

### **WARD 7: ELGIN NORTH**

#### **Proposed residential development (100% affordable) with associated access infrastructure landscaping and miscellaneous works at Spynie Hospital Duffus Road Elgin Moray for Moray Council**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a proposed residential development (100% affordable) with associated access infrastructure landscaping and miscellaneous works at Spynie Hospital Duffus Road Elgin Moray for Moray Council.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is on a housing site designated for 50 houses within the Development Plan.

During discussion surrounding biodiversity enhancements proposed for the site, the provision of bird boxes and bat boxes was welcomed however it was queried whether a condition could be added to include insect hotels.

In response, Ms MacDonald, Senior Planning Officer agreed to add a condition to include the provision of insect hotels.

During further discussion surrounding the concern raised in objections in relation to overshadowing, confirmation was sought from Officers that any overshadowing was in line with policy.

In response, Mr MacPherson, Principal Planning Officer advised the Committee that the issue of overlooking and overshadowing was primarily in the area that bounds Duffus Lane and Duffus Crescent. With regard to overlooking, Mr MacPherson advised that the Applicant had worked extensively with Officers to amend plans and minimise overlooking and with regard to overshadowing, Mr MacPherson advised that this could not be prevented however was confident this will not be excessive or unreasonable.

With regard to the proposed provision of cycle storage it was asked, for consistency with other planning applications, if a further condition could be included to provide storage for at least 2 cycles per flat.

In response, Ms MacDonald agreed to amend condition 21 to include the provision of storage for at least 2 cycles per flat.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 20/00781/APP subject to:

- the completion of a new legal agreement prior to the issue of consent; and
  - the following conditions and reasons including:
    - an additional condition to include the provision of insect hotels; and
    - an amendment to condition 21 to include the provision of storage for at least 2 cycles per flat
1. No development shall commence (other than those works required to further investigate and remediate contamination on the site) until:
- (i) A report of assessment of contamination on the previously inaccessible area in the northeast of the site has been submitted to the Council as Planning Authority. The assessment should be undertaken 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', in accordance with a sampling strategy previously submitted to and accepted by the Council. The report shall include details of how identified contamination will be dealt with during subsequent construction works and details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use.
  - (ii) Written confirmation has been issued by the Council as Planning Authority that all remedial measures to deal with contamination on the site have been implemented and completed in accordance with the details as specified in the agreed final version of the applicant's remediation plan, dated 10 May 2021, along with additional remedial measures identified as a result of the additional investigations in the northeast of the site.

**Reason:** To ensure that the site, including areas not previously investigated, is suitable for the proposed use, and that risks posed by on-site contamination to

the wider environment and to the users of neighbouring land are appropriately managed.

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

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

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

3. All drainage proposals shall be as detailed on approved plan GC22387-96-001 C. All measures for the management of surface water shall be implemented in full prior to the first occupation of any residential unit hereby approved and thereafter shall be maintained in accordance with the submitted SUDS Maintenance Strategy SPY-B&B-XX-XX-RP-C-002 dated 23 March 2021.

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

4. No development shall commence until details confirming the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each unit) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** To ensure the residential units hereby approved are served by appropriate high speed internet connections

5. No development shall commence on the development hereby approved until a detailed Art Strategy (including street naming strategy) has been submitted to and approved by the Council as Planning Authority. This shall reflect the principles set out in the submitted document Spynie Integrated Public Art Strategy and include details of how the art will be delivered and a timetable for delivery and details of maintenance arrangements. Thereafter the strategy shall be implemented in accordance with the phasing details contained within it.

**Reason:** To ensure that public art is appropriately incorporated into the development.

6. No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Council, as Planning Authority. The CEMP shall address all environmental management issues related to the development including

arrangements in the event of unforeseen protected species being encountered on site which shall be in line with the measures set out in section 6.14 of the submitted document Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey Report. Thereafter, the development shall be implemented in accordance with the approved CEMP details.

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

7. No development shall commence until a pre-construction (no more than 6 months prior to the start of works) badger survey, in line with the recommendations contained within the submitted report entitled 'Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified and a species protection plan. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

**Reason:** To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

8. No development shall commence until a pre-construction (no more than 6 months prior to the start of works) red squirrel survey, in line with the recommendations contained within the submitted report entitled 'Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

**Reason:** To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

9. No development shall commence until a pre-construction bat survey (no more than 3 months prior to the start of works), in line with the recommendations contained within the submitted report entitled 'Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020, has been undertaken and a report of survey has been submitted to, and approved in writing by the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

**Reason:** To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

10. No development shall commence until details of the exact location of all bat and bird boxes proposed on approved drawing 10948-LD-PLN-002 have been

submitted to and agreed in writing with the planning authority. Thereafter all bat and bird boxes shall be installed prior to the first occupation of any unit hereby approved.

**Reason:** To ensure that the proposed biodiversity enhancement measures are timeously provided.

11. No development shall commence until details of hedgehog highways between plots have been submitted to and agreed in writing by the Planning Authority. Thereafter the approved details shall be implemented prior to the first occupation of any unit hereby approved.

**Reason:** To ensure sufficient biodiversity enhancement measures.

12. No development shall commence until the tree protection measures detailed on the approved plan 0948-LD-PLN-100 revision G have been implemented in full.

**Reason:** In order to ensure adequate measures to protect retained trees are in place.

13. Notwithstanding the submitted play strategy no development shall commence until revised details for the play park have been provided to include details of the surfacing of the play park which shall be suitable for those with physical disabilities and the inclusion of play equipment and benches for those with physical and sensory disabilities. The equipped play area shall be provided in accordance with the approved details and be available for use prior to the occupation of any of the houses hereby approved. Thereafter the play area shall be maintained in accordance with the approved maintenance arrangements.

**Reason:** To ensure that the play park makes adequate provision for all abilities play and ensure the adequate provision of an equipped play area and its future maintenance.

14. No development shall commence until an implementation plan setting out the timings of provision of each element of the proposed landscaping and open space has been submitted to and approved in writing by the planning authority. Thereafter the development shall not proceed except in accordance with the agreed plan. All landscaping shall be in accordance with approved drawing 10948-LD-PLN-001 D and submitted documents Spynie Residential Development Soft Landscape Specification and Planting Schedules REF: 10948-LD-DOC-001 date March 2022 and Spynie Hospital Redevelopment Moray Council Landscape Materials and Planting Palette 10948-LD-REP-001 version 2 date March 2002. For the avoidance of doubt the implementation plan must provide for all seeding and planting to be carried out no later than the first planting season following the completion of development.

**Reason:** To ensure a high standard of landscaping is proposed and timeously provided.

15. No development shall commence until details including materials, design and surface density of an 1.8m high acoustic fence as described on page 14 of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number:

60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association have been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Authority. Thereafter the approved fence shall be provided as follows:

- Plot 1 along the southern and western boundary of the plot
- Plot 2 along the western boundary of the plot
- Plots 28 - 34 along the southern boundary of each plot

The fence shall be provided prior to the first occupation of the unit on the plot to which the fence is provided and retained in perpetuity.

**Reason:** To prevent noise nuisance.

16. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise, dust and artificial lighting. Thereafter the development will be carried out in accordance with the agreed plan at all times.

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

17. Notwithstanding the submitted Road Safety Audit and proposed works to widen the B9012 and pedestrian refuge crossing (which are not accepted). No development shall commence until the details have been submitted for approval by the Planning Authority in consultation with the Roads Authority:
- Details (Plans scale 1:500 min) for Pedestrian and Cycle crossing facilities on the B9012 to address connectivity for access to the cycle path on the western side of the B9012 and provide access to the bus stops.
  - Details (Plans scale 1:500 min) for a 2 metre wide footpath on the north side of the B9012 connecting the footway between the proposed site access onto the B9012 and the existing cycle path from Duffus Heights to the northwest.
  - A Road Safety Audit (Stage 2) for the proposed site layout and any offsite works to the B9012 and revisions to the proposals to address issues raised.

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

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

18. No development shall commence until the following details have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority:
- Details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit for each house.
  - Details (product specification) for the proposed rapid charging unit (min

22Kw) to be provided for the flats.

Thereafter the EV charging infrastructure for the houses and flats shall be provided in accordance with the approved drawing and details prior to the first occupation of any house or flat which it is associated with.

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

19. No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to confirm the arrangements for future adoption/vesting by an in-perpetuity regulatory body, of the maintenance and management of the roads SUDs system excluding any other parts of the SUDs system to be identified by the Roads Authority which is to be maintained by or factored on behalf of the developer or their successors.

**Reason:** To ensure the management and maintenance of effective roads drainage and surface water management infrastructure proposed for the site.

20. No development shall commence until details have been submitted to confirm the maintenance/ factoring arrangements for all landscaped areas within or adjacent to the public road (including footways and cycle paths, verges, and service strips but excluding residential plot boundaries). Thereafter the landscaping shall be maintained in accordance with the approved arrangements and it must be ensured that landscaping will not interfere with the function of the public road or cause a hazard to road users.

**Reason:** In the interests of road safety and the provision of details currently lacking from the submission.

21. No development shall commence in relation to Plots 3-7 or 31-34 until details have been submitted to and approval in writing by the Planning Authority in consultation with the Roads Authority for the proposed secure and enclosed cycle storage to provide a minimum of 2 cycle spaces per flat.

Thereafter, no flat shall be occupied until the cycle storage associated with it has been provided and made available for use and the cycle storage shall be retained and maintained in perpetuity as cycle parking for use in conjunction with the flat.

**Reason:** To ensure the permanent availability of the level of cycle parking necessary for residents/visitors/others in the interests of an acceptable development.

22. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- duration of works;
  - construction programme;
  - anticipated schedule for delivery of materials and plant;
  - full details of any temporary construction access;



- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

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

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

23. A visibility splay 2.5m x 90m in both directions shall be provided at the site access onto the B9012 and thereafter maintained clear of any obstruction over 0.6m in height measured from the carriageway.

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

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

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

25. Parking provision shall be provided in accordance with Parking Standards of the Moray Local Development Plan 2020 prior to the first occupation of the house or flat which it is associated with. Thereafter the parking provision shall be retained and available for use for that purpose unless otherwise agreed in writing by the Planning Authority.

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

26. None of the units hereby approved shall be occupied until the roads and paths connecting it to the B9012 and the works to provide the pedestrian and cycle crossing(s) on the B9012 in accordance with the approved details, have been completed and opened to the public.

**Reason:** In the interests of an acceptable form of development and the provision of safe access for all road users in the interests of road safety.

27. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place in the service strips along plot frontages and no additional planting shall take place within these areas.

**Reason:** In order to retain effective control over future development within the application site so that it is carefully managed and to ensure effective roads drainage infrastructure is provided and safeguarded.

28. The maintenance arrangements for the landscaping and play area contained in chapter 7 of the submitted document Spynie Residential Development Soft Landscape Specification and Planting Schedules shall be implemented in full.

**Reason:** To ensure that these areas are properly maintained in a manner which will not adversely affect the development or amenity and character of the area

29. All measures in relation to ground nesting birds contained in paragraphs 6.10-613 of the Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020 shall be adhered to at all times.

**Reason:** To ensure that ground nesting birds and their nests are protected.

30. No trees other than those identified for removal on the approved plan 10948-LD-PLN-100 revision G shall be removed without the prior written approval of the Council, as Planning Authority.

**Reason:** In order to ensure tree removal is adequately controlled.

31. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) 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 minimise the impact of construction works upon the amenity of the surrounding area including any neighbouring residential property.

32. The units approved on plots 3 to 8 and 31 to 34 shall have acoustic trickle ventilation provided in first floor living apartments windows, which should achieve an acoustic performance of at least  $D_{n,e,w} 29 \text{ dB Ctr } -1 \text{ dB}$ , as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

**Reason:** To prevent noise nuisance.

33. The units approved on plots 1, 2 and 31 to 34 shall have acoustic trickle ventilation provided in first floor bedroom windows, which should achieve an acoustic performance of at least  $D_{n,e,w} 26 \text{ dB Ctr } -1 \text{ dB}$ , as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3

dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

**Reason:** To prevent noise nuisance.

34. The units approved on plots 3 to 8 and 31 to 34 shall have acoustic thermal double-glazing units (6mm pane/12mm air gap/4mm pane) provided in first floor living apartments windows, which should achieve an acoustic performance of at least  $R_w + C_{tr} = 28$  dB, as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

**Reason:** To prevent noise nuisance.

35. The units approved on Plots 1,2 and 31 to 34 shall have acoustic thermal double-glazing units (6mm pane/12mm air gap/4mm pane) provided in first floor bedroom windows, which should achieve an acoustic performance of at least  $D_{n,e,w} 26$  dB  $C_{tr} -1$  dB, as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

**Reason:** To prevent noise nuisance.

36. No development shall commence until details including locations have been provided of a minimum of 2 insect hotel/stacks have been submitted to and agreed in writing by the Planning Authority. Thereafter the approved details shall be implemented prior to the first occupation of any unit hereby approved.

**Reason:** To ensure sufficient biodiversity enhancement measures.

### 13. BUCKIE SOUTH MASTERPLAN

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to note the representations to the draft Buckie South Masterplan and agree the Council's response to these and that delegated authority is granted to the Head of Economic Growth and Development to make further technical amendments following an updated Transport Appraisal (TA) and further revisions set out in the report and thereafter, proceed to adoption of the Masterplan as non-statutory supplementary guidance (SG) to the Moray Local Development Plan 2020 (LDP).

During her introduction, Ms Webster, Senior Planning Officer advised the Committee of 2 typos in Appendix 2, the first at page 107 where page 25 should read page 36 and the second at page 108 where page 40 should read page 25. This was noted.

During discussion surrounding the draft Masterplan a number of suggestions were made by the Committee for inclusion in the final Masterplan including the provision of accessible play equipment for mobility impaired users, the use of communal waste points and the inclusion of photographs of attractive gateways into Buckie

In response, Ms Webster agreed to incorporate the Committee's suggestions into the final version of the Masterplan.

Thereafter, the Committee agreed:

- (i) to note the representations received to the public consultation on the draft Buckie South Masterplan and agrees the Council's responses to these as set out in Appendix 1;
- (ii) the amendments to the final draft Masterplan as set out in Appendix 2 and that these will be incorporated into the Masterplan, subject to:
  - the correction of 2 typos at page 107 where page 25 should read page 36 and at page 108 where page 40 should read page 25;
  - additional wording in relation to accessible play equipment for mobility impaired users;
  - additional wording in relation to waste management, specifically the use of communal waste points; and
  - the inclusion of photographs of attractive gateways to Buckie;
- (iii) to delegate authority to the Head of Economic Growth and Development to make any further technical changes required to the Masterplan following the review of an updated Transport Appraisal (TA) and any necessary revisions required by the Transportation Manager, and thereafter, proceed to adopt the Masterplan as non-statutory Supplementary Guidance (SG) upon the satisfactory completion of this work; and
- (iv) that the amalgamated final draft Masterplan and proposed amendments will be a material consideration in the determination of planning applications and that following any necessary revisions required by the Transportation Manager, and subsequent adoption as non-statutory SG to the LDP the Masterplan is afforded significant weight in the development management process.

#### **14. APPOINTMENT OF PUBLIC ANALYST, AGRICULTURAL ANALYST**

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the resignation of the appointed Public Analyst and Agricultural Analyst and sought agreement to formally appoint the successor.

Following consideration, the Committee agreed to appoint Karen Maddison B.Sc. (Hons), M.Chem.A., C.Chem., M.R.S.C to act as Public Analyst and Agricultural Analyst for Moray Council.

#### **15. UNAUTHORISED ERECTION OF A FENCE AT RESIDENTIAL PROPERTY IN ELGIN [PARA 12]**

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the unauthorised erection of a 1.5m high timber fence in the front garden of a residential property in Elgin.

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: the Enforcement Notice will require the owner of the fence to reduce the height of the front garden fence on the north and west boundary to 1.0m or less within 6 weeks of the Enforcement Notice taking effect.
- (ii) that should the Enforcement Notice not be complied with then authority be given to Officers to take direct action to reduce the height of the fence.