



Planning and Regulatory Services Committee

Tuesday, 20 December 2022

NOTICE IS HEREBY GIVEN that a Meeting of the **Planning and Regulatory Services Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 20 December 2022** at **09:30**.

BUSINESS

1 **Sederunt**

2 **Declaration of Group Decisions and Members Interests ***

3 **Resolution**

Consider, and if so decide, adopt the following resolution:
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 14 and 15 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

4 **Minute of Meeting dated 25 October 2022** **7 - 50**

5 **Written Questions ****

Guidance Note **51 - 52**

6 **Planning Application 22/01104/APP** **53 - 86**

Report by Appointed Officer

Proposed new recycling building at Grays Recycling Ltd Nether Dallachy
Spey Bay Fochabers for Grays Recycling Services Ltd

7	Planning Application 22/01544/APP	87 - 134
	Report by Appointed Officer	
	Change of use from agricultural use to temporary outdoor nursery to be used March to October 2023 during the refurbishment and extension of the nursery at Aberlour Primary School at New Cemetery Aberlour Cemetery High Street Aberlour for Moray Council	
8	Planning Application 2200410APP_Redacted	135 - 176
9	Planning Application 2200563APP_Redacted	177 - 266
10	Planning Application 2201269APP_Redacted	267 - 316
11	Development Plan Scheme 2023 - Moray Local Development Plan 2027	317 - 344
	Report by Depute Chief Executive (Economy, Environment and Finance)	
12	Planning Policy Guidance - Moray Local Development Plan 2020	345 - 352
	Report by Depute Chief Executive (Economy, Environment and Finance)	
13	Question Time ***	
	Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.	

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

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|----|---|
| 14 | Review of Tree Preservation Orders [Para 13] |
| | <ul style="list-style-type: none"> Information, which if disclosed to the public, would reveal that the Authority proposes, for the purposes of consultation, make an order or direction under any enactment which might allow an individual or organisation to defeat the purpose of the notice or order; |
| 15 | Tree Preservation Order [Para 13] |
| | <ul style="list-style-type: none"> Information relating to instructions to counsel any opinion of counsel and any advice received, information obtained or action to be taken in connection with any legal proceedings; |

Summary of Planning and Regulatory Services

Committee functions:

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

Watching the Meeting

Any person wishing to attend the meeting should contact customer services on 01343 563217 prior to the meeting as the number of attendees is restricted due to the recent Covid pandemic

**You can however watch the webcast of the meeting by going to :
http://www.moray.gov.uk/moray_standard/page_43661.html**

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

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

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

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

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

THE MORAY COUNCIL

Planning and Regulatory Services Committee

SEDERUNT

Councillor David Gordon (Chair)
Councillor Marc Macrae (Depute Chair)

Councillor Neil Cameron (Member)
Councillor John Cowe (Member)
Councillor John Divers (Member)
Councillor Amber Dunbar (Member)
Councillor Donald Gatt (Member)
Councillor Sandy Keith (Member)
Councillor Scott Lawrence (Member)
Councillor Graham Leadbitter (Member)
Councillor Paul McBain (Member)
Councillor Derek Ross (Member)
Councillor Draeyk Van Der Horn (Member)
Councillor Sonya Warren (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	07765 741754
Clerk Email:	committee.services@moray.gov.uk

MORAY COUNCIL**MINUTE OF THE MEETING OF THE PLANNING AND REGULATORY SERVICES
COMMITTEE****25 OCTOBER 2022****COUNCIL CHAMBERS, ELGIN****PRESENT**

Councillors Gordon (Chair), Macrae, Cameron, Cowe, Divers, Dunbar, Gatt, Keith, Lawrence, Leadbitter, McBain, Ross, Van Der Horn and Warren.

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, Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mrs D Anderson, Senior Engineer (Transportation), Ms L MacDonald, Senior Planning Officer, Ms R MacDougall, Senior Planning Officer, 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 Ross advised the Committee that, in respect of Item 8 "Town Centre Improvement Plan" his wife is the Chair of the Speyside Community Council and had submitted representations on behalf of the organisation however, following advice from the Legal Adviser, was content that this did not preclude him from taking part in the debate. Councillor Gatt also confirmed, in respect of Item 8 "Town Centre Improvement Plan" he had made a representation during the public consultation and sought advice from the Legal Adviser as to whether this would preclude him from the debate. In response, the Legal Adviser advised that, as this was not a quasi-judicial meeting or in relation to any planning application, then this would not stop Councillor Gatt participating in the debate. The Chair also stated that he had made a representation during the consultation for Item 8 "Town Centre Improvement Plan" however this was prior to becoming a Councillor and stated that he would take part in the debate of this item. Councillor Van Der Horn confirmed, in respect of Item 6 "Planning Application 22/01094/AMC" that he lives in Findhorn and is aware of the site however, having consulted with the Legal Adviser, was content that he could fairly consider the application.

Subject to these clarifications, there were no declarations of Member's interests in respect of any item on the agenda.

2. MINUTE OF MEETING DATED 16 AUGUST 2022

The minute of the meeting of the Planning and Regulatory Services Committee dated 16 August 2022 was submitted and approved.

3. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

4. PLANNING APPLICATION 22/00499/APP

Ward 2 – Keith and Cullen

Proposed quarry extension at Cairdshill Quarry Keith Moray AB55 5PA for Tarmac Caledonian Ltd

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a proposed quarry extension at Cairdshill Quarry Keith Moray AB55 5PA for Tarmac Caledonian Ltd.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major development as defined under the Hierarchy Regulations 2009 because the site area exceeds 2 ha.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/00499/APP subject to the conditions detailed within the report.

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on **41 years** the initiation of development (the 'cessation date') by which time and prior to that cessation date, the application site shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as Planning Authority (see Condition 3 below). Written confirmation of the date of initiation of development shall be submitted to the Council, as planning authority prior to commencement of development (see notes regarding submission of Notification of Initiation of Development attached to this decision notice).

Reason: To ensure an acceptable form of development enabling the development to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, and to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and appearance of the site and surrounding area together with securing removal of all site infrastructure used in the extraction process prior to embarking upon the restoration of the site.

2. Except where otherwise provided for, or agreed and/or amended by the terms of this permission, the applicant/operator shall operate the development in

accordance with the provisions of the application, the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, titled "Proposed Extension to Cairdshill Quarry, Keith" and the plans hereby approved. For the avoidance of doubt this shall include compliance with the mitigation measures listed in table 13.1 on pages 188 to 190 inclusive of the Environmental Review (unless otherwise specified/controlled by conditions within this decision notice) and adherence to the Waste Management Plan (Appendix 3).

Reason: To ensure an acceptable form of development in accordance with the submitted particulars and in order to safeguard the amenities, character and appearance of the locality within which the proposal is located.

3. Notwithstanding the indicative final site restoration plan shown on drawing C161-00055-13 (which is not approved) at least one (1) year prior to completion of mineral workings ceasing on the site, a Site Specific Restoration and Aftercare Plan shall be submitted to and approved in writing by the Council, as planning authority in consultation with SEPA. The plan shall be in accordance with the information detailed within Sections 3 and 4 (Development Proposals and Restoration and Aftercare) of the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, and include (but not be limited to) the following information:
 - a) the arrangement for the removal of all buildings and structures (both mobile and fixed plant, etc.) from the site;
 - b) details of the finalised landform to be provided on site, including all water/pond areas and all areas of site mounding or regrading of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum);
 - c) the provisions for re-instatement for after-uses to include agricultural grassland, species rich grassland, woodland/tree and shrub/scrub planting, ephemeral wetland, marginal planting and bare ground and habitat creation as proposed within the Environmental Review supporting document including sections and finished ground levels to show the finished profile of the re-instated ground;
 - d) landscaping and planting/seeding information associated with the proposed formation of all identified habitats (to include species, girth, height, siting etc.);
 - e) details of stock proof fencing; and
 - f) the arrangements for the monitoring and aftercare scheme which shall specify all the steps to be taken and the time periods within which the steps will be taken (to be a minimum of 5 years); any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season).

Thereafter, the restoration of the site and aftercare shall be carried out in accordance with the approved details.

Reason: To retain control over this development and ensure that the site is appropriately restored in the interests of the protection of the environment, as these details are currently lacking from the application.

4. 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 programme of works shall comprise a 5% trial trenching evaluation of the proposed development area, and be carried out by a suitably qualified archaeological contractor. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

5. In respect of existing private water supply infrastructure identified as being affected by the development, prior to the commencement of the development hereby approved, details of the measures to be taken to protect the quality and quantity of existing water supplies (or to provide replacement supplies) shall be submitted to and agreed in writing by the Council, as Planning Authority. Thereafter, the measures will be implemented in accordance with the agreed details.

Reason: To ensure that the development does not impact on the sufficiency and wholesomeness of water supply to existing neighbouring properties.

6. No development or works shall commence within the extension area until the area has been enclosed by a stock proof fence which shall be maintained thereafter for the lifetime of the consent and until the restoration scheme is complete.

Reason: In the interests of the safety of the public and of livestock and in order to control the working of the site within the approved boundaries.

7. Unless otherwise agreed with the Council, as Planning Authority the annual rate of extraction shall not exceed 75,000 tonnes and the operator shall maintain records of output/production from the excavated area, to be made available to the Council, as Planning Authority at any time and on request.

Reason: In order to retain control over the working of the site and its impact on the area.

8. All quarry operations shall be carried out and permitted between 0700 - 1800, Monday to Friday, and 0700 - 1230, Saturdays and at no other times without the written consent of the Council, as planning authority in consultation with the Environmental Health Manager, notwithstanding the separate time periods in condition 16 which specifically relate to blasting times.

Reason: In order that the times of quarry operations are controlled to minimise disturbance to local residents.

9. During the normal daytime working hours defined in the above condition, the free-field Equivalent Continuous Noise Level (LAeq,1hr) for the period, excluding bund formation, soil and overburden handling activity and quartzite drilling operations, shall not exceed the greater of 45dB(A) or the background sound level + 10 dB for daytime operations, as determined at any existing noise sensitive property. For the avoidance of doubt the average background sound level (L A 90) at dwellings is stated in Tables 1.1 to 1.4 of noise impact assessment supporting document by Vibrock Limited, dated 29 March 2022, reference R22.11375/1/RK and titled "Noise Impact Assessment. Cairdshill Quarry Extension, Morayshire. Dalglish Associates Limited."

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

10. During the normal daytime working hours defined in condition 8, the free-field Equivalent Continuous Noise Level (LAeq,1hr) from quartzite drilling operations, shall not exceed 55dB(A), as recorded at any existing noise sensitive property and be limited to a period not exceeding 10 days in any calendar year.

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

11. Noise from soil and overburden handling shall not exceed the free-field Equivalent Continuous Noise level (LAeq,1hr) of 70 dB(A) at any existing noise sensitive property and be limited to a period not exceeding 8 weeks in a year at any one property.

Reason: In order that noise from the bund formation phase of development is controlled and that the duration of this activity is limited in duration, so as not to cause noise nuisance to local residents.

12. Broad spectrum white noise vehicle reversing alarms shall be installed on all vehicular quarry plant.

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

13. At the reasonable request of the Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note 'PAN50, Annex A: The Control of Noise at Surface Mineral Workings'. The results of such monitoring shall thereafter be forwarded to the Planning Authority. In the event of a breach of noise limits a scheme of mitigation shall be brought into action and its implementation agreed with the Planning Authority.

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

14. Prior to the development hereby approved commencing, a written scheme to control blasting operations shall be submitted and agreed with the Planning

Authority. The results of monitoring associated with the agreed scheme shall be made available in writing to the Planning Authority on request.

Reason: In order that blasting operations are considered and managed, in order to protect local residents.

15. Ground vibration as a result of blasting operations at the development shall not exceed a peak particle velocity of 6 mms-1 (95% confidence level) at residential properties, with no individual blast exceeding a peak particle velocity of 12mms-1. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason: In order that vibration associated with blasting from the development is controlled so as not to cause nuisance to local residents.

16. No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) Monday to Fridays and (1000 and 1200 hours) on Saturday. There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

Reason: In order that the times of blasting operations are controlled to minimise disturbance to local residents.

17. The above condition 16 shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Planning Authority shall be notified in writing immediately of the nature and circumstances of any such event.

Reason: In order that that the Planning Authority is informed of any emergency situation where the above condition cannot be met.

18. A Site Dust Management Plan for the site shall be maintained throughout the lifetime of the development in accordance with Section 9.9 of the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, and titled "Proposed Extension to Cairdshill Quarry, Keith."

Reason: In order to ensure that dust emissions are considered and managed, in order to prevent dust nuisance to local residents.

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

Reason: In order to ensure that light emissions are controlled so as not to give rise to a nuisance to local residents.

20. Prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations or within 3 months of the issue of planning consent (whichever is soonest) the applicant must submit the following information for approval by the Planning Authority in consultation with the Roads Authority:

- a. Details (Plans scale 1:500 min and Management Strategy) for the provision of physical and other mitigation measures to prevent the discharge of water and loose material from the site onto the public road.

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

21. Prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations visibility splays of 2.4 metres by 70 metres (minimum) in both directions, shall be provided at both accesses to the development onto the U43h, clear of any obstruction above 0.6 metres in height, measured from the level of the carriageway.

Thereafter the visibility splays shall be maintained for the lifetime of the use of the accesses.

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.

22. Prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations or within 3 months of the issue of planning consent (whichever is soonest) the applicant must submit the following information for approval by the Planning Authority in consultation with the Roads Authority:

Plans (1:500 min) showing the location and design of road improvement works to widen the U43h to a minimum of 7.3m over a continuous length of 100m from the site access eastwards towards the A96 with bend widening and geometry changes and associated improvements to road verges, drainage and boundary treatments and cutting back of vegetation within the road envelope as necessary to accommodate two-way unopposed HGV traffic movements and resurfacing of the full width of the carriageway over 20 metres centred on each of the site entrances and exits.

Thereafter, prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations the works shall be completed in accordance with the approved details.

Reason: To ensure an acceptable development in road safety terms through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

23. No development shall take place until documentary evidence has been submitted to and approved in writing by the Council, as Planning Authority demonstrating that the Restoration Guarantee Fund from the Minerals Products Association (MPA) is available and can be implemented, should it prove expedient to do so. The operator shall provide annual confirmation of continuing membership of the MPA. In the event that, for any reason, the operator ceases to be a member of the MPA it shall within 31 days produce to the Council a performance bond, for a sum to be agreed between the parties, both acting reasonably, and granted by a UK bank or other approved financial provider.

Reason: To ensure adequate restoration of the site.

24. The Water Management Plan and embedded mitigation measures as detailed within the submitted Hydrological and Hydrogeological Assessment (Section 6.7 refers) and Drainage Strategy (Appendix 5) of the Environmental Review supporting document prepared by Dalgleish Associates Limited, dated March 2022, shall be fully implemented by the applicant/operator, unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure adequate protection of the water environment and to prevent potential pollution impacts.

25. No works in connection with the development hereby approved shall commence until detailed calculations, scaled drawings, cross sections and specifications for the attenuation and flow control device for the development have been submitted to and approved in writing by the Council, as Planning Authority. These shall be in accordance with the details outlined in the submitted Drainage Strategy (Appendix 5) and Hydrological and Hydrogeological Assessment of the Environmental Review supporting document prepared by Dalgleish Associates Limited, dated March 2022. Thereafter the development shall be carried out in accordance with these approved details.

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

26. The rights permitted under Paragraphs 1a and 1b of Class 55 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, are hereby withdrawn. The installation of any buildings not specified in the planning application will require the prior approval of the Council, as planning authority in accordance with Class 56.

Reason: In the interests of residential amenity and to ensure that the Planning Authority retains control over the future use of the site.

27. Notwithstanding the indicative final site restoration plan shown on drawing C161-00055-13 (which is not approved) prior to the phased restoration works during Phase 1 (regrading and planting of northern overburden mound and eastern quarry edge) a Restoration and Aftercare Plan shall be submitted to and approved in writing by the Council, as planning authority. The plan shall be in accordance with the information detailed within Sections 3 and 4 (Development Proposals and Restoration and Aftercare) of the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, and include (but not be limited to) the following information:
- a) details of the finalised landform to be provided on site during phase 1, including all areas of site mounding or regrading of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum);
 - b) landscaping and planting/seeding information associated with the proposed formation of all identified habitats (to include species, girth, height, siting etc.); and

- c) the arrangements for the monitoring and aftercare scheme which shall specify all the steps to be taken and the time periods within which the steps will be taken (to be a minimum of 5 years); any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season).

Thereafter, the restoration of the site and aftercare during phase 1 shall be carried out in accordance with the approved details.

Reason: To retain control over this development and ensure that the site is appropriately restored in the interests of the protection of the environment, as these details are currently lacking from the application.

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

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

5. PLANNING APPLICATION 21/01963/APP

Ward 3 – Buckie

Proposed residential development (Phase 1) associated landscaping and infrastructure and demolition of existing dwellinghouse at R7 Land at Muirton, Muirton Way, Buckie, Moray for Morlich Homes Ltd

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a proposed residential development (Phase 1) associated landscaping and infrastructure and demolition of existing dwellinghouse at R7 Land at Muirton, Muirton Way, Buckie, Moray for Morlich Homes Ltd

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal exceeds 50 house units and falls within the category of a major development as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee that, in relation to Condition 7, 2 reasons for the condition had been included in error and that the Committee should disregard the first one as this was covered in the second reason. This was noted.

During discussion surrounding access to the cemetery, concern was raised in relation to how buses will enter and exit the cemetery and the impact this may have on Alba Road.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that access to the cemetery is a matter for the Lands and Parks Service however she was aware of proposed changes to ensure that it is suitable for pedestrians and that occasional

use of Alba Place may be required if there are buses transporting people to the cemetery. Mrs Anderson further assured the Committee that buses are no larger than refuse collection vehicles, which Alba Road was able to accommodate however would continue to monitor the use of Alba Road to ensure that there is no adverse impact.

In relation to EV Charging Points detailed in Condition 22, Councillor Van Der Horn queried whether this condition could be amended as follows "No development shall be occupied until the plan includes EV charging infrastructure".

In response, Mr MacPherson, Principal Planning Officer suggested the following wording "a detailed plan of all EV charging for houses flats and communal parking be provided and no houses and flats occupied until this is in place". However, following the meeting, and after reviewing the Site Plan (Drawing 19-39/PL/02 Rev B), it was noted by Officers that EV local points are already detailed and that further details are also provided on the house type plans for many plots where the point of connection is on the building. Taking this into consideration, it was considered that there was no requirement to amend Condition 22 and the following rewording of Condition 22 was agreed in conjunction with the Chair and Councillor Van Der Horn.

"The provision of EV charging infrastructure shall be implemented in accordance with drawing number 19-39/PL/02 Rev B "Phase 1 Site Plan - Including housing mix and schedule" and approved house plans showing EV charging infrastructure. 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."

During further discussion surrounding the provision cycle storage, it was asked that a condition be added to ensure safe, secure, weatherproof cycle storage for all units that have no secure garden or garage in the development.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that Condition 17b related to cycle storage and Mr MacPherson, Principal Planning Officer agreed to amend this to ensure cycle storage for all units with no secure garden or garage.

With regard to the access to the development at the junction at Barhill Road, concern was raised that this is a challenging junction and it was queried whether any additional safety measures would be put in place.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that this junction would be further considered by the Transportation Service.

Thereafter, the Committee agreed:

- (i) that the Transportation Service will give further consideration to access requirements to the nearby cemetery and to the junction at Barhill Road;
- (ii) to grant planning permission in respect of Planning Application 21/01963/APP subject to:

- the completion of a (Section 75) legal agreement regarding developer obligations relating to primary and secondary school provision and transport requirements;
- the following conditions and reasons with the following amendments:
 - the removal of the first reason for Condition 7;
 - condition 17b) to read “No details are provided for the bike storage for units with no secure garden and garage. The bike store shown between parking bays to the front of plots 61/62 does not appear to be set back from the parking spaces and needs to be set back or relocated close by. Details (Plans (1:200 min) and specifications are required for the provision of secure weatherproof cycle parking for units with no secure garden and garage in accordance with the Moray Local Development Plan 2020 Parking Standards)”;
 - condition 22 to read “The provision of EV charging infrastructure shall be implemented in accordance with drawing number 19-39/PL/02 Rev B “Phase 1 Site Plan - Including housing mix and schedule” and approved house plans showing EV charging infrastructure. 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”.

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

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

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

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

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

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

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

4. The 19 units identified as affordable housing on the approved site plan shall only be used for affordable housing purposes 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 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.

5. The accessible housing identified on the approved Site Plan, shall be provided in accordance with the Accessible housing statement submitted in support of this application and each accessible house shall thereafter be retained a such throughout the lifetime of the development.

Reason: To ensure accessible housing is provided and retained within the development hereby approved.

6. Unless otherwise agreed in writing with the planning authority, the equipped play area shall be provided in accordance with the approved plans prior to the commencement of the 30th residential unit on site. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan for the lifetime of the development.

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

7. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Landscaping/Biodiversity drawing number 19-39/PL/06 Rev B, and show and clarify the following:
 - a) The position and number of species to be planted in the approved rain gardens and roadside swales,
 - b) The location of all public areas to be finished in grass, which notwithstanding the details shown on the approved site plan, shall include the kick about area within the play park,
 - c) The arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken on the site, and including the woodland planting to the southwest of the site and the tree avenue along the old cemetery load shown on the approved site plan and
 - d) Details for the landscaping and timing of the area identified for future neighbourhood development on the site plan.

Reason: In order to remove any ambiguity regarding the terms of the landscape scheme, to also ensure structural planting blocks are provided to help integrate this phase of the development and to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

8. The development hereby approved shall be carried out in accordance with the mitigation measures as identified within the Preliminary Ecological Appraisal submitted in support of this application.

Reason: To ensure the proposals minimise the impact on the surrounding wildlife and maximises opportunities for habitat creation.

9. The development hereby approved shall be carried out in accordance with the mitigation, compensation and biodiversity enhancement measures as identified within the bat survey submitted in support of this application.

Reason: To ensure the proposals minimise the impact on bats and maximises opportunities for habitat creation.

10. Prior to development commencing a surface water maintenance plan shall be submitted to and approved in writing by the local Planning Authority. All surface water drainage provision within the development shall be implemented in accordance with the details contained in the Drainage Impact Assessment, submitted in support of this proposal. Each residential unit hereby approved shall not be brought into use until it is connected to the approved drainage arrangements. Thereafter the drainage arrangements and surface water maintenance plan shall be will be retained and maintained throughout the lifetime of the development.

Reason: To ensure surface water from the development is disposed of and maintained in a sustainable manner.

11. All bird and bat boxes and hedgehog highways as shown on the approved Landscaping/Biodiversity shall be provided prior to the completion of the house on which they are located or within 3 months of the completion of the development (whichever is the sooner).

Reason: In order to ensure these habitat enhancement measures are provided as soon as practical, in the interests of supporting biodiversity on site.

12. Unless otherwise agreed in writing with the Planning Authority all boundary enclosures shall be provided in accordance with the details specified on the approved site plan. The boundary enclosures associated with each house/unit hereby approved shall be provided prior to completion of each house/unit and thereafter retained throughout the lifetime of the development.

Reason: To ensure the timeous provision, retention and specification of the approved boundary enclosures in the interests of the character and appearance of the development.

13. 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. This should comprise a level 1 archaeological standing building survey of the farmstead & farmhouse, prior to demolition, as well as an archaeological trial trenching evaluation of 5-7% of the total proposed development site, these works to be undertaken by a suitably qualified archaeological contractor.

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.

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

14. 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 residential 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, in accordance with policy PP3 – Infrastructure and Services of the Moray Local Development Plan 2020.

15. Prior to commencement of development timescales for the provision of the public art as shown on the approved site plan and detailed on page 16 of the placemaking statement dated December 2021, submitted in support of this application, shall be provided and agreed in writing with the local planning authority and subsequently implemented in accordance with the agreed timescales. The public art shall thereafter be retained throughout the lifetime of the development.

Reason: To ensure the public art is timeously provided.

16. Notwithstanding the details submitted shown within the adopted road layout plan which does not include a road connection to the New Cemetery are not acceptable. No development shall commence until the following have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority and Lands and Parks:
- details (Plans scale 1:500 min) for a road connection (including footways/cyclepaths) to be provided between Alba Road and the New Cemetery Car Park;
 - a development phasing plan (roads and plots) to demonstrate that no works shall commence on any part of the development to the north of the

existing cemetery connection until the approved road connection (including footways and cyclepaths) between Alba Road and the New Cemetery Car Park have been completed and opened to the public.

Thereafter, unless otherwise agreed in writing by the Planning Authority the development, shall be completed in accordance with the approved details and access to the New Cemetery Car Park.

Reason: To ensure access is provided in the interests of an acceptable development, road safety and the provision of details currently lacking from the submission and to ensure pedestrian and vehicle access is maintained to the “New Cemetery” at all times throughout the construction of the development.

17. Notwithstanding the site layout details below submitted (which are not acceptable) no development shall commence until details are submitted and approved in writing by the Planning Authority in consultation with the Roads Authority to address the following:
- a) Plots 55 and 56 (which require 3 parking spaces) show a public footway between the 3 proposed parking spaces which is unacceptable. (Either the footway fronting plots 55-57) shall be relocated adjacent to the carriageway or an additional parking space must be provided within the plot to the rear of the buildings);
 - b) No details are provided for the bike storage for units with no secure garden and garage. The bike store shown between parking bays to the front of plots 61/62 does not appear to be set back from the parking spaces and needs to be set back or relocated close by. Details (Plans 1:200 min) and specifications are required for the provision of secure weatherproof cycle parking for units with no secure garden and garage in accordance with the Moray Local Development Plan 2020 Parking Standards);
 - c) The details for the proposed footway/verge in front of Plot 21 are unacceptable/lacking detail. (Revised details (Plans 1:500 min) required showing the footway located adjacent to the carriageway);
 - d) Plots 13 and 14 show (Drawing PL-39/PL/02 Rev B) show a shared wide dropped kerb opening which is unacceptable. (Revised details (Plans 1:500 min) required showing the footway relocated adjacent to the carriageway and single width driveway crossings of the footway);
 - e) A 3m cyclepath between the Plot 28/29 boundaries. No details of fencing are provided. Minimum clearances are required between the cyclepath and any fence or boundary features in accordance with Cycling by Design. (Revised details showing the proposed cyclepath boundary details (walls/fences etc), their height and positions set back in accordance with the requirements of Cycling by Design are required);
 - f) Plot 27 and 29 ‘Duffus’ 4 bed houses require a minimum of 3 parking spaces. The current proposals indicate 1 garage space and 1 driveway space. The driveway for plot 27 is less than 6 metres in front of the garage opening. Plot 27 therefore has a shortfall of 2 parking spaces and plot 29 has a shortfall of 1 parking space. (Revised details (Plans scale 1:200 min) are required to show provision for 3 parking spaces for each plot;
 - g) The proposed junction with Alba Road severs the existing 3m cyclepath with no provision to reconnect the existing cyclepath or provide 3m wide crossings of Roads 1 and 2 which are required to maintain connectivity. (Details (Plans 1:500min) are required for a continuous 3m wide cyclepath on the north side of Road 1 and Alba Road with a 3m wide crossing of

Road 2. The existing cyclepath on Alba Road to the south must be extended along the south side of Road 1 and 3m wide crossings provide of Road 1 to form a continuous cyclepath connection from the south).

Thereafter unless otherwise agreed in writing by the Planning Authority, the development shall be completed in accordance with the approved details. No house or flat shall be occupied until parking has been provided and made available for use by that house or flat. 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 availability of the level of parking necessary for residents/visitors/others, in the interests of an acceptable development, road safety and the provision of details currently lacking from the submission.

18. 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/phasing;
- construction compound location(s)
- hours of operation for delivery of materials and plant;
- full details of any temporary construction access (note: no construction traffic shall be permitted via Golf View Drive unless approved in writing by the Planning Authority in consultation with the Roads Authority) ;
- measures to be put in place to prevent material being deposited on the public road and measures to be put in place to monitor and clean 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
- site 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.

19. No development shall commence until evidence has been submitted to confirm that a Road Safety Audit (Stage 1/2) for the internal road layout new junction onto Alba Place and modifications and extension to Golf View Drive have been completed in agreement with the Roads Authority and revised details for any revised layouts have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority.

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

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

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 more than 5 residential units shall take access from the northern accesses via Golf View Drive until the proposed road and footways between Golf View Drive and Alba Road have been completed in accordance with the approved details and opened to the public.

Reason: To ensure that acceptable access and connectivity is provided to the development.

22. The provision of EV charging infrastructure shall be implemented in accordance with drawing number 19-39/PL/02 Rev B "Phase 1 Site Plan - Including housing mix and schedule" and approved house plans showing EV charging infrastructure. 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.

23. 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.

24. No boundary fences, hedges, walls or any other obstruction whatsoever over 1 metre in height and fronting onto the public road shall be within 2.4 metres of the edge of the carriageway and nothing fronting onto a cyclepath shall be within 0.25 metres of the edge of the cyclepath, 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 and to prevent obstructions to cyclepath users, in the interests of road safety for the proposed development and other road users.

25. Householder permitted development rights (as defined in the Town and Country Planning (General Permitted Development) (Scotland) Order 1922, (as amended) (or any Order revoking and re-enacting that Order(s) with or without

modification shall be removed from any service strips along plot frontages and no amendments to planting within these areas shall be permitted.

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

26. The consent hereby permitted relates to phase one only (65 dwellings units, associated landscaping and infrastructure) and no other development.

Reason: To clarify the extent of the development permitted.

6. PLANNING APPLICATION 22/00715/APP

Ward 2 – Keith and Cullen

Installation of an energy storage facility including battery enclosures power conversion units transformer substations grid connection infrastructure vehicular access and associated works at Land At Drum Farm Keith Moray for Renewable Energy Systems Limited

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for the installation of an energy storage facility including battery enclosures, power conversion units, transformer substations, grid connection infrastructure, vehicular access and associated works at Land at Drum Farm, Keith, Moray for Renewable Energy Systems Limited.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is major as the proposal relates to electricity generation with a capacity of more than 20Mw.

During discussion relating to planting surrounding the development, it was noted that the site was geometric in shape and it was queried whether screening of the site could be broken up with hedging and mature trees so that it blends into the landscape more effectively.

In response, Mrs MacDonald, Senior Planning Officer advised that a specific standard of trees could be requested and that Condition 18 would be amended to reflect this.

Thereafter, the Committee agreed to grant planning permission in respect of Planning Application 22/00715/APP subject to the following conditions and reasons with an amendment to Condition 18 to read:

“Notwithstanding the details shown on approved plan P22-0056.001 Rev B all trees to be planted shall be at least heavy standard. In all other regards all landscaping works shall be carried out in accordance with the details shown on approved plan P22-0056.001 Rev B in the first planting season following the first operation of the development hereby approved.

Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority”.

1. The development to which this permission relates must be began not later than the expiration of 5 years beginning with the date on which this permission is granted.

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

2. No development shall commence until final details of all the proposed battery system and storage including the battery enclosure, transformers, grid compliance equipment, substation building and spares storage container have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt the final installations shall not exceed the dimensions shown on approved plans 04872-RES-SUB-DR-PT-003 re v1, 04872-RES-SUB-DR-PT-002 rev 1, 04872-RES-SUB-DR-PT-001 rev 1, 04872-RES-PCS-DR-PT-001 rev 1 and 04872-RES-SUB-DR-PT-004 rev 1 the installation shall be finished in white, grey or green. Thereafter only the approved details shall be implemented.

Reason: To ensure that the development harmonises with its surroundings.

3. No development shall commence until a pre-construction survey for badgers and otters, in line with the recommendations contained in section 4.4 of the submitted report entitled 'Preliminary Ecological Appraisal' by RES dated March 2022, 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 habitats 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 contained 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.

4. No development shall commence until details including the number, location and specification of artificial bat and bird roosts to be placed throughout site have been submitted to and agreed in writing with the Planning Authority. Thereafter the approved items shall be provided prior to the first use of the site hereby approved.

Reason: To secure biodiversity enhancements of the site.

5. Notwithstanding the submitted details no development shall commence until full details of the proposed acoustic fence have been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Authority. For the avoidance of doubt a 3m high acoustic barrier shall be installed in accordance with Section 5 of the noise impact assessment supporting document by RES, dated 21 April 2022 Ref: 04872-3761753, and titled "Assessment of Acoustic Impact for the Proposed Drum Farm Energy Storage Project.", and as detailed on the approved plans 04872-RES-LAY-DR-PT-001 3 and 04872-RES-SEC-DR-PT-002 1.

Thereafter the approved fence shall be installed prior to the first use of the site hereby approved and maintained in perpetuity.

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

6. No development shall commence until evidence has been submitted to and accepted in writing by the Planning Authority to demonstrate that Scottish Water (protectdwsources@scottishwater.co.uk) have been notified that works are to take place.

Reason: To ensure the safeguarding of the drinking water catchment area.

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

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

8. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent has been put in place to ensure the repair of the public road serving the site in the event that the developer fails to meet their obligations (as agreed as part of a Wear and Tear agreement) to maintain the road in a safe condition during the construction phase of the development and to restore the road to its pre-development condition within 1 year of the development becoming operational and has been submitted to and agreed in writing with the Council, as Planning Authority in consultation with the Roads Authority. For the avoidance of doubt the agreement shall cover the section of the U35H Drum-Ardron Road from the A96 to the site entrance.

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

9. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - duration of works;
 - construction programme;
 - parking provision, loading and unloading areas for construction traffic;
 - full details of temporary arrangements to safeguard pedestrian movements during the construction period;

- proposals to safeguard vulnerable pedestrians at and around Keith Primary School during the construction period;
- full details of any temporary access;
- 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 including any specific instructions to drivers; and
- a programme of monitoring for all routes identified within the CTMP during construction will be required.

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

10. No development (except that associated with the visibility splays) shall commence until:
 - i. a visibility splay 2.4 metres by 120 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and
 - ii. Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.

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

11. No development (other than that associated with the passing places) shall commence until two passing places to the Moray Council standards and specification have been constructed on the U35H Drum - Ardrone Road at the locations shown on drawing no. 04872-RES-ACC-DR-PT-001 submitted on 22.06.2022.

Reason: To enable drivers of vehicles to have adequate forward visibility to see approaching traffic and for two vehicles to safely pass each other ensuring the safety and free flow of traffic on the public road.

12. Prior to the first use of the development hereby approved the site entrance and access track shall be constructed in accordance with approved drawing no. 04872-RES-ACC-DR-PT-002.

Reason: To ensure acceptable infrastructure at the development access.

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

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

14. 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 advance 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 to protect local residents from noise nuisance due to the use of the development.

15. The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt the modal background sound level for the daytime period and night-time period respectively has been determined as an L A 90 of 40 dB and 31 dB, as stated in Section 4 of the noise impact assessment supporting document by RES, dated 21 April 2022 Ref: 04872-3761753, and titled "Assessment of Acoustic Impact for the Proposed Drum Farm Energy Storage Project." The rating level and background sound level associated with this condition are defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

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

16. The operational site lighting shall be provided in accordance with approved drawings 04872-RES-LAY-DR-PT-001 Rev3 and 04872-RES-SEC-DR-PT-001, Rev1, and no other external lighting shall be installed.

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

17. The development shall at all times be carried out in accordance with the approved Construction Environmental Management Plan entitled 'Drum Farm Battery Storage Project' by RES, dated 8 March 2022, Ref: 04872-3704703.

Reason: To ensure environmental impacts are suitably managed and maintained during the construction phase.

18. Notwithstanding the details shown on approved plan P22-0056.001 Rev B all trees to be planted shall be at least heavy standard. In all other regards all landscaping works shall be carried out in accordance with the details shown on approved plan P22-0056.001 Rev B in the first planting season following the first operation of the development hereby approved.

Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority".

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

19. All foul and surface water drainage proposals shall be in accordance with the

submitted report Flood risk Statement and Drainage Impact Assessment, dated 05 May 2022 and approved drawing 04872-RES-LAY-DR-PT-001 rev 3.

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. PLANNING APPLICATION 22/01208/APP

Ward 1 – Speyside and Glenlivet

Section 42 to amend condition 3 of 17/01003/APP in relation to time period Meikle Hill Dallas Moray for The Dallas Trust

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a Section 42 to amend condition 3 of 17/01003/APP in relation to time period at Meikle Hill, Dallas, Moray for The Dallas Trust.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal is a major planning application.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/01208/APP subject to the following conditions and reasons:

1. The development as hereby granted shall begin no later than 5 years from the date of this permission; and for the purposes of this permission, the development as hereby granted shall be that as described and approved under formal decision notice 14/01087/EIA dated 25 June 2015 i.e. for six (6) wind turbines only, to be undertaken in accordance with the turbine model design and site infrastructure layout arrangements as shown on amended drawings 60289428-ENG -003 Rev C and -002 Rev C as received from the applicant on 1 April 2015 which forms part of the development as approved under application 14/01087/EIA and the request to vary Condition 20 has been removed.

Reason: In accordance with Section 58 (4) of the Town and Country Planning (Scotland) Act 1997 taking into account the nature and requirements for implementation of the development and to ensure an acceptable form of development whereby all turbines as proposed are located within an Area of Search and in the Upland Moorland and Forestry Landscape Character Type/Area with greatest potential for windfarm development and in the Upland Moorland and Forestry/Upland Plateau with Forest (10) Landscape Character Type wherein there is limited scope to accommodate this large turbine typology, and in the interests of the appearance and amenity of the surrounding locality including account of landscape and visual effects of the development, and in accordance with the applicant's agent's submitted particulars (email 18 August 2017 refers).

2. Except where otherwise provided for, or required by the terms of this permission, the permission hereby granted relates strictly to the dimensions and specifications of the turbine design (including make, model, design, power rating and sound power level of the turbine to be used) and site layout

infrastructure arrangements as provided for in the application and, with the exception of any micro-siting of turbines and other infrastructure, to all other mitigation measures as identified in the Environmental Statement and subsequent Addendum I and II of the Environmental Statement (as included within application 14/01087/EIA), and any amendment thereof shall be subject to the express prior written approval of the Council, as planning authority.

Reason: To ensure the development is carried out in accordance with the submitted application particulars and that the merits and implications of any proposed micro-siting or other variation to the development as approved can be assessed in terms of impact on landscape and visual, cultural and natural heritage and/or other environmental interests, etc.

3. The permission as hereby granted is for a period of 40 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. Within 12 months of the expiry of this period the wind turbines and ancillary equipment shall be dismantled to ground level and removed from the site and the land shall be restored in accordance with the details agreed under condition 5 below.

Reason: To define the duration of the permission and enable a review and; where required, a re-assessment of the environmental and other impacts of the development.

4. The applicant/developer/wind turbine operator shall, after the First Export Date, record information continuously regarding the monthly supply of electricity to the national grid from each turbine within the development hereby granted and retain the information for a period of at least 24 months. The information shall be made available to the Council, as planning authority within one month of any request being made.

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, the wind turbine(s) along with any ancillary equipment, fixtures and fittings no longer required in connection with the retained turbines shall, within 3 months of the end of the said continuous six month period or when ceasing to be no longer required, be dismantled and removed from the site and the surrounding land shall be re-instated in accordance with a re-instatement scheme including specification of all works and timescale for re-instatement 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.

5. No development shall commence until:
 - a) a draft Restoration and Decommissioning 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 Restoration and Decommissioning Plan, based upon (the principles of 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 Plan 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 ground level and 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, environmental management provisions including traffic and noise management plans to address issues likely to arise during the decommissioning period and provisions for the restoration and aftercare of the site; and

Thereafter, the development shall be decommissioned and the site restored in accordance with the approved plan details.

Reason: To ensure the re-instatement of the site in an acceptable and timeous manner with all wind turbines and associated development removed from the site in the interests of safety, environmental protection, amenity and appearance of the site upon the surrounding area.

6. 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 (Condition 5) or where all 6 turbines cease to be required (Condition 4) or where works other than the erection of turbines have been undertaken but no turbines are erected on the site (for example, in the event that no Scheme is agreed/implemented (Condition 25), whichever is the sooner. The required bond or equivalent shall:
- a) be based on the Restoration and Decommissioning Plan (as required by Condition 5);
 - 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, including dismantling, removal, disposal, site restoration, remediation and all other incidental works and professional costs; and
 - c) include details to ensure that the proposed financial arrangements will be maintained and be subject to periodic review throughout the lifetime of the development. 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 and the findings of the review shall be submitted to and approved by 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 expected full costs of decommissioning and re-instatement and restoration of the site.

7. 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 the turbines to be used;
 - b) the external colour and/or finish of the turbines including towers, nacelles and blades which shall be non-reflective, semi-matt pale grey;
 - c) together with details including further landscape and visual impact information to demonstrate that they will not adversely affect the landscape and visual character, integrity and amenity of the site or the surrounding area, the location, design specifications and external material finishes and colour of any external wind turbine transformer kiosk, unless otherwise located within the tower of the wind turbine;
 - d) for the substation 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 together with the finalised site layout arrangements, including the external appearance, dimensions and surfacing materials for the compound area, any walls, paths or other proposed/required ancillary infrastructure to be provided, any required/proposed external switch gear infrastructure to be located within the compound, the arrangements for access and parking and disposal of foul and surface water from the compound area, and all required/proposed landscaping to be provided around the compound or elsewhere within the site to screen and/or mitigate the landscape and visual impact of the compound and its infrastructure therein;
 - e) excluding the requirement for compensatory planting (see Condition 28) and for all other required/proposed landscaping requirements throughout the site, a landscape scheme (see Condition 9);
 - f) the location(s) and design specifications for all required/proposed upgraded existing and new watercourse crossings, to include information to demonstrate that they are designed to convey a 1 in 200 year plus climate change design flow without causing constriction of flows or increasing the risk of flooding elsewhere (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 1.1, 1.10, 1.11 refers);
 - g) for the formation of access tracks and watercourse crossings, information including the extent and scale of the required/proposed works to demonstrate that no land raising occurs within the functional flood plain of any watercourse without the provision of associated compensatory storage and an assessment of the changes to floodplain conveyance (SEPA consultation responses on application 14/01087/EIA and 17/01003/APP, 16 July 2014 and 14 July 2017, pars 1.1, 1.5 - 1.11 and pars 1.1 - 1.9 refer);
 - h) details of the arrangements including timescale(s) for inspection to manage and mitigate surface water run-off during all stages of the development including proposals/regimes for inspection and maintenance of drains to prevent blockages (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 1.12 refers);
 - i) based on investigation, further information to establish the viability of utilising and upgrading of sections of existing tracks on the site (including the track along the edge of forestry to the eastern edge of the application

- site) together with justification for not using/upgrading existing tracks and creating new access tracks (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 2.3 refers);
- j) details to demonstrate that all track bases are made permeable to shallow ground water flows where constructed through wet heath (M15) and any other groundwater dependent terrestrial ecosystems (GWDTEs) including the instances of the M6 community that are crossed (Environmental Statement, Volume 2, Chapter 10 and SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 2.4 refers);
 - k) details for the location(s) and design specifications for the proposed installation of ultra-violet and pre-filtration treatment arrangements to any private water supply to be provided/used for human consumption within the development site during the construction and operational stages of the development;
 - 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 be not limited to, all required/proposed measures to mitigate the impact of the development upon water resources, hydrology, hydrogeology and geology and nature conservation (including ecology and ornithology, protected species and habitats) interests. These details may be incorporated within any site specific Construction Environmental Management Plan (CEMP) (see Condition 8 below); and

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 flooding and surface water run-off, to minimise impacts on wetland habitats and maintain (chemical) quality of water supplied to downslope wetlands, to minimise impacts upon nature conservation interests, and to provide for a wholesome private water supply where proposed as part of the development.

8. 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 Environmental Management Plan (CEMP). The CEMP shall incorporate details for the environmental management, pollution prevention (not just during construction) and the following:
 - a) surface water management plan;
 - b) pollution prevention plan;
 - c) site waste management plan;
 - d) watercourse engineering;
 - e) peat management - to include details of all peat stripping, excavation, arrangements for storage and re-use of peat in accordance with best practice;
 - f) (construction) noise management plan (see Condition 28);
 - g) species protection plans - to include those for breeding birds and bats, and GWDTEs including arrangements for pre-commencement surveys to

- confirm presence/absence of species on site, timing of works(s) to avoid disturbance, development of buffer areas to prevent encroachment onto and into areas of protected species and valued habitats, etc.;
- h) habitat management plan - to include the arrangements to manage, monitor and mitigate the loss of habitats and compensate for losses within and beyond the site, and proposals and practices to enhance bio-diversity to off-set habitat and species damage or loss, including restoration of areas of blanket bog and wet heath and improving areas for golden plover;
 - i) invasive non-native species protocol - to address all bio-security and other measures to be adopted to control the spread of giant hogweed and skunk cabbage in and around the Dallas/Kellas area.

In addition, the CEMP shall also include reference to the terms of appointment of an appropriately qualified Ecological Clerk of Works (to be appointed by the applicant/developer/wind turbine operator and approved by the Council, as planning authority after consultation with SNH), to include a remit with roles and responsibilities which shall include, but not necessarily be limited to, the monitoring of all works carried out on site and ensuring compliance with all environmental and nature conservation mitigation works and working practices, advising and training on adequate environmental and nature conservation interests within and adjoining the site, directing the placement of development infrastructure within the site and powers to halt development on site where environmental considerations warrant such action.

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

Reason: In order to minimise the impacts of construction and operation of the development upon the environment and secure detailed information on the delivery of mitigation works and measures as identified which are currently lacking from the submitted particulars.

- 9. Excluding the requirements for compensatory planting (Condition 28), the Landscape scheme shall show:
 - a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
 - b) details of measures to be taken to protect any existing landscape features to be retained during the course of developing the site;
 - c) details of the numbers, species, position, planting distances and sizes of all new planting to be undertaken;
 - d) details of all earth mounding/moulding works to be undertaken, to include the proposed formation of bunding or similar screening around the sub-station compound or along the access tracks or elsewhere within the site together with details regarding the location, extent and design specification for their construction and formation of all earth works and cross-sections details to relate the works to both existing and finished ground levels; and
 - e) details regarding the time-scale(s) for undertaking all landscaping and earth works.

Thereafter, all planting or seeding and earthwork operations shall be implemented in accordance with the approved details and any trees or plants which (within a period of 5 years from planting) die, are removed or become

diseased or damaged shall be replaced in the following planting season with others of similar size, number and species unless otherwise agreed in writing with the Council, as planning authority.

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development including addressing the landscape and visual and environmental impact of the substation and access tracks upon the appearance and amenity of the development upon the surrounding area and to ensure that all approved landscape works are timeously carried out and properly maintained.

10. The blades of all turbines shall rotate in the same direction and no names, symbols, signs or logos 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 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.

11. In relation to each of the two borrow pit locations as identified on amended drawing 60289428-ENG-002 Rev C:
- a) materials excavated from each pit location shall be used solely for purposes in conjunction with this Meikle Hill wind farm development and for no other use or purpose without the prior written consent of the Council, as planning authority; and
 - b) no development shall commence until details for each borrow pit have been submitted to and approved by the Council, as planning authority regarding:
 - i. finalised location and dimensions, including area and depth of excavation, together with cross and long sections across the pit area to show the extent and depth of excavation relative to existing and finished (excavated depth) ground levels;
 - ii. location(s), extent and height of any temporary storage of material both before and after processing on the site;
 - iii. location(s) and description of plant and machinery to be used to process excavated material on the site;
 - iv. location and details of arrangement for fencing or similar means of enclosure to be erected to define and limit the area of borrow pit working (and within which all borrow pit activity including storage and movement of materials and machinery shall be located at all times);
 - v. location and details of arrangements for surface water management include de-watering ponds etc;
 - vi. proposed timescales for all excavation activity;
 - vii. the arrangements for site restoration and after-care of each borrow pit, to include:
 - a) details including sections of proposed/required re-grading and levelling works to re-integrate the area with its surroundings;
 - b) details of sub-material and topsoil arrangements to be provided to enable re-instatement of the area to form a natural habitat;
 - c) details of all plantings to be undertaken (see Condition 9); and
 - d) timescale for site re-instatement works.

Thereafter, all borrow pit activity shall be undertaken 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 including consideration of the landscape and visual impact upon the surrounding area during both excavation and re-instatement of each borrow pit area.

12. No development shall commence until details have been submitted to and approved in writing by the Council, as planning authority in consultation with the Moray Access Manager regarding a Public Access Plan for the development/site (to include both existing arrangements and all required/proposed access arrangements during all stages of the development, including the construction stage). In particular, the plan shall show:
- a) all existing paths, tracks and rights of way and any areas currently outwith or excluded from statutory access rights (under Part 1 of the Land Reform (Scotland) Act 2003); and
 - b) any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures; and
 - c) all paths and tracks proposed for construction, for use by walkers, riders, cyclists, and all ability users; and
 - d) any diversions or paths - temporary or permanent - proposed for the purposes of the development; and
 - e) details to include location, design specifications and time-scales for provision for the following:
 - i) details of specific access controls, for example gates to be inserted at main access points, etc;
 - ii) details of the arrangements to provide for public access for horse riders, cyclists, pedestrians and the less able; and
 - iii) proposals to accommodate and enhance through access and connectivity to/from the local paths network, to include the provision and incorporation of a new path linking from the vehicle track near turbine 1 through to the existing Right of Way located along the southern boundary of the site; and
 - iv) details of all signage /mapboards or similar to be provided at key access points to highlight all outdoor access opportunities.

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

Reason: To mitigate the effects of the development and maintain and improve public access and connectivity both within, and to and from the site.

13. No development works (including site clearance) shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with Aberdeenshire Council Archaeology Services regarding a written scheme of investigation (with timescales) to secure and undertake the implementation of a programme of archaeological works. Thereafter, the development and all recording and recovery of archaeological resources within the development site shall be implemented in accordance with the approved scheme.

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

14. All construction activities associated with the development, including vehicle movements at the site shall be permitted only between 07:00 and 19:00 hours, Mondays - Fridays, and 07:00 and 16:00 hours on Saturdays, with no working on Sundays or public holidays. Any required works outwith the stated times likely to be audible at the curtilage of any noise sensitive property shall not be permitted except with the prior written consent of the Council, as planning authority in consultation with the Environmental Health Manager or in the case of an emergency.

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

15. Blasting times associated with the development including the formation of borrow pits shall be restricted as follows i.e.
- a) no blasting shall be carried out on the site except between 10:00 and 12:00 hours, and 14:00 and 16:00 hours, Mondays to Fridays, and 10:00 and 12:00 hours on Saturdays; and
 - b) no blasting or drilling operations on Sundays or other public holidays. The above blasting time arrangements shall not apply in cases of emergency where it is considered necessary to carry out blasting operations in the interests of safety. The Council, as planning authority shall be notified in writing immediately of the nature and circumstances of any such event.

Reason: To protect nearby residents from undue noise and disturbance impacts and loss of amenity.

16. Ground vibration as a result of blasting operations at the site, for example where required to form the borrow pits shall, at all times, not exceed a peak particle velocity of 10mms-1 in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 12mms-1 as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason: To protect nearby residents from undue noise and disturbance impacts and loss of amenity.

17. At the reasonable request of the Council, as planning authority in conjunction with the Environmental Health Manager, following receipt of any complaint relating to vibration experienced from development operations including blasting operations to form borrow pits, the applicant/developer/wind turbine operator shall take steps to measure and monitor, at its own expense, ground vibration to ensure compliance with Condition 16. Within two (2) weeks of being so notified of vibration being experienced (or as longer as the Council, as planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority in consultation with the Environmental Health Manager the results of such monitoring together with details (including timescale for implementation) of measures to monitor and address vibration impacts to ensure compliance with the requirements of Condition 16. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: To protect nearby residents from undue noise and disturbance impacts and loss of amenity.

18. At the reasonable request of the Council, as planning authority in conjunction with the Environmental Health Manager, following receipt of any complaint relating to shadow flicker associated with the development hereby approved, the applicant/developer/wind turbine operator shall investigate and instigate appropriate measures to mitigate the effects of shadow flicker. Within two (2) weeks of being so notified of shadow flicker being experienced (or as long as the Council, as planning authority may allow) the applicant/developer/ wind turbine operator shall submit to the Council, as planning authority in consultation with the Environmental Health Manager the results of such investigations together with details of measures to address the effects of shadow flicker, including the timescale within which the measures will be implemented. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: In order to redress and mitigate any identified impacts of shadow flicker and safeguard the amenity of local residents.

19. 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 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.

20. 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 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.

21. Prior to the commencement of deliveries to the site including movement of any abnormal load, details shall be submitted to and be approved in writing by the Council, as planning authority in consultation with Transport Scotland, as trunk roads authority and/or its operating company regarding a Route Access Report or equivalent, including swept path analysis or similar where appropriate, to identify the proposed route for any abnormal load movements on the trunk road and demonstrate that exceptional loads can be transported through the trunk road network safely. The details shall include all required or proposed accommodation measures including timescales for all required/proposed removal of street furniture, junction widening, and traffic management, etc. and show that the transportation of turbine components will not have any detrimental effect on structures within the route path. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: To minimise interference and maintain the safety and free flow of traffic on the trunk road as a result of the traffic moving to and from the development.

22. During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed shall be undertaken by a recognised (QA) traffic management consultant, in accordance with the name of the consultant which shall previously have been provided to the Council, as planning authority in consultation with Transport Scotland, as trunk roads authority and/or its operating company before any construction commences.

Reason: To minimise interference and maintain the safety and free flow of traffic on the trunk road and to ensure that the transportation of turbine components will not have a detrimental effect on the road and on structures along the delivery route.

23. Prior to the commencement of development details of the following shall be submitted to and approved by the Council, as planning authority in consultation with Transportation Manager (and Transport Scotland where appropriate):
 - a) detailed proposals for undertaking both trial runs and also delivery of abnormal indivisible loads, to include (but not be limited to) identification of all temporary and permanent modifications and measures required to protect the public road and structures together with the arrangements for traffic, vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e. outwith school crossing patrol times, etc;
 - b) a Traffic Management Plan, in accordance with the scope and content of the required Plan which shall have previously been submitted to and approved by the Council, as planning authority in consultation with the Transportation Manager. The Traffic Management Plan shall cover the duration of the development, methods of dealing with large delivery vehicles, methods of marshalling and manoeuvring at junctions on the public road network, any temporary traffic waiting restriction requirements

- and all modifications to the road network and traffic management arrangements;
- c) detailed plans (to include location and design construction specifications) to confirm the full extent of the proposed road widening of the B9010 to 5.5m;
 - d) details (1:200 scale drawing) of the proposed access junction onto the B9010 Pluscarden Road. 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 25m of the access shall be to The Moray Council specification and surfaced with hot rolled asphalt. The access radii shall accommodate the abnormal load vehicle movements as determined in the Traffic Management Plan, and shall be kerbed using 254 x 127mm splayed/half battered precast concrete kerbs to The Moray Council specification. 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;
 - e) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the provision of a visibility splay of 4.5m x 215m, and a schedule of maintenance for the area within the visibility splay; and
 - f) in order to monitor, assess and address the impact of construction and delivery traffic on the road network between the site access and the A96, an assessment of the network and a programme of monitoring during construction. The assessment shall include provision for a 'before and after' condition survey to be carried out jointly with Council's Transportation Section, traffic counters on the B9010 east and west of the site access in advance of any construction traffic, either permanently or on a scheduled basis (to be agreed with the Council, as roads authority) throughout the construction period and for a period after works are completed.

Thereafter, all modifications to the road network and traffic management arrangements shall be implemented in accordance with the approved details and all required works to the public road network shall be completed prior to the delivery of any materials to the development site.

Reason: To ensure an acceptable development including the provision of additional information currently lacking from the submission and to ensure acceptable infrastructure is provided along the proposed delivery/ construction route to the site access in the interests of road safety.

24. Prior to the commencement of construction and of deliveries to the site, including abnormal loads and abnormal indivisible loads, the following shall be provided (in accordance with the approved details and to The Moray Council standards and specifications):
 - a) abnormal load trial run(s) shall be undertaken after mitigation works have been undertaken (as approved under Condition 23 above) to confirm the works are acceptable and to identify any other restrictions not previously addressed including confirmation of the required/proposed vertical clearances at bridge crossings, and the frequency and location of all required abnormal load passing places/oncoming vehicle holding areas. Representatives from Moray Council Transportation (Traffic), the Trunk Roads Authority and Police Scotland must be invited to the trial run(s);

- b) for all abnormal indivisible loads, all required/proposed works approved under Conditions 23 and 24a above shall be provided in accordance with the approved details and to The Moray Council standards and specifications. Any works undertaken shall be permanent for the duration of the operation of the development unless otherwise agreed in writing with the Council, as planning authority in consultation with the Transportation Manager;
- c) all road widening/alterations/verge hardening as identified in Conditions 23 and 24a above, the site access onto the B9010 and any dropped kerbs required to allow overrunning of hardened verge;
- d) the 50m section of new 40mm thick Hot Rolled Asphalt which shall be provided on the B9010 Pluscarden Road (25m either side of the centreline of the access, over the entire width of the road) unless otherwise agreed in writing by the Council, as planning authority in consultation with the Transportation Manager; and
- e) the visibility splay of 4.5m x 215m (Condition 23 refers) and thereafter, the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0m above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To ensure an acceptable development including the provision of additional information currently lacking from the submission and to ensure acceptable infrastructure is provided along the proposed delivery/ construction route to the site access in the interests of road safety.

25. No wind turbine shall be erected unless and until an Air Traffic Control Radar Mitigation Scheme, to address the impact of the wind turbine upon air safety, has been submitted to and approved in writing by the Council, as planning authority in consultation with the Ministry of Defence (Defence Infrastructure Organisation) where:
- a) the Air Traffic Control Radar Mitigation Scheme is a scheme which shall be designed to mitigate the impact of the development upon 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; and
 - b) no turbines shall become operational unless and until all those measures required by the approved Air Traffic Control Radar Mitigation Scheme have been implemented prior to operation of the turbines and the Council, as planning authority in consultation with the Ministry of Defence (Defence Infrastructure Organisation) has confirmed this in writing.

Thereafter, the development shall be operated fully in accordance with the approved Air Traffic Control Radar Mitigation Scheme.

Reason: In the interests of military aviation safety.

26. MOD-accredited 25 candela omni-directional aviation lighting OR infra-red warning lighting shall be installed with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all the turbines in accordance with confirmation of the proposed lighting

arrangements to be installed which shall have been previously submitted to and approved in writing by the Council, as planning authority in consultation with the Ministry of Defence, Defence Infrastructure Organisation Safeguarding Officer prior to any light installation. Thereafter, the turbines shall be erected with this confirmed lighting installed and the lighting shall remain operational at all times throughout the duration of the permission hereby granted.

Reason: In the interests of military aviation safety.

27. No development shall commence until details have been submitted to the Council, as planning authority to confirm the submission of the following information to the Ministry of Defence, Defence Infrastructure Organisation and Civil Aviation Authority (Defence Geographic Centre (AIS Information Centre)):
- a) the date construction starts and ends;
 - b) the exact position of the wind turbine towers in latitude and longitude;
 - c) a description of all structures over 300 feet high;
 - d) the maximum extension height of all construction equipment; the height above ground level of the tallest structure; and
 - e) details of the approved lighting scheme to be installed (Condition 26 refers).

Reason: To ensure the erected turbines present no risk to air safety.

28. No development shall commence until details have been submitted to the Council, as planning authority in consultation with Forestry Commission Scotland regarding details of a woodland planting scheme (the Replanting Scheme) within Moray to compensate, in this case, the removal of 8ha of existing woodland from the site in order to accommodate the development. The Replanting Scheme details shall:
- a) include the specifications for
 - i. on-site replanting;
 - ii. off-site compensatory planting;
 - iii. tree maintenance and protection to established planting (including Deer Management); and
 - b) comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers and include:
 - i. details of the location of the area to be planted;
 - ii. details of land owners and occupiers of the land to be planted;
 - iii. the nature, design and specification of the proposed woodland to be planted;
 - iv. details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - v. the phasing and associated timescales for implementing the Replanting Scheme; and
 - vi. proposals for the maintenance and establishment of the Replanting Scheme, including annual checks; protection from predation; replacement planting; fencing; ground preparation; and drainage, etc.

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

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

29. No development shall commence until details shall be submitted to and approved by the Council, as planning authority in consultation with the Environmental Health Manager regarding a 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. Thereafter, the development shall be implemented in accordance with the approved management plan.

Reason: Details of the matters specified are lacking from the submitted particulars and have yet to be determined (Environmental Statement, Volume 2, Chapter 7 refers) and in order to manage and minimise the impact of noise associated with construction activity upon the amenity of local residents.

30. The rating level of noise emissions from the combined effects of the 6 wind turbines comprising the Meikle Hill wind farm as hereby approved (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (see Additional Information as included in this formal decision notice) 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 Council, as 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 Council, as 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 Council, as 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 Council, as 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 Council, as 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 Council, as 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 Council, as 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 Council, as 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 Council, as planning authority for the complainant's dwelling. For the sake of clarification the Meikle Hill Wind Farm Environmental Statement, Volume 2, Main Report, Chapter 7, has advised that any occupants of Aultahuish and Scottackleys have a direct financial involvement in the wind farm development. Therefore, in accordance with ETSU-R-97, higher noise limits are applicable under these conditions for these properties only.
- e) The wind farm operator shall provide to the Council, as 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 Council, as planning authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Council, as 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 Council, as 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 Council, as 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 metre height (m/s) within the site averaged over 10-minute periods.

	3	4	5	6	7	8	9	10	11	12
Tombreck Farm	35	35	35	35	37.6	40.9	44.2	47.4	50.1	52.3
Scottackleys	45	45	45	45	45	45	45	45	45.4	48.9
Aultahuish	45	45	45	45	45	45	45.4	48.7	51.7	54.2
Torchastle	35	35	35	35	37.2	40.9	44.5	47.8	50.7	52.9
Ballachraggan	35	35	35	35	36.2	38.7	41.3	44.0	46.5	48.9

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 metre height (m/s) within the site averaged over 10-minute periods.

	3	4	5	6	7	8	9	10	11	12
Tombreck Farm	40	40	40	40	40	40	40.6	43.6	46	47.4
Scottackleys	45	45	45	45	45	45	45	45	45.8	48.8
Aultahuish	45	45	45	45	45	45	45	46.9	49.8	54.2
Torchastle	40	40	40	40	40	40	40.6	43.6	46	47.4
Ballachraggan	40	40	40	40	40	40	40.2	43.1	45.9	48.4

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

Property	Easting	Northing
Tombreck Farm	314030	852721
Scottackleys	312914	850420
Aultahuish	314038	849458
Torchastle	313163	852532
Ballachraggan	313336	849197

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.

31. Prior to the first commencement of the operation of the development hereby approved details shall be submitted to and approved by the Council, as planning authority in consultation with the Environmental Health Manager, regarding a scheme for the assessment and regulation of amplitude modulation effects.

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.

8. PLANNING APPLICATION 22/01094/AMC

Councillor Cameron left the meeting at this juncture.

Ward 8 – Forres

Approval of matters specified in conditions 1, 4-6 imposed on 19/00320/PPP (Erect a dwellinghouse and associated landscaping) on Plot 5 North Whins Findhorn Moray for Arboreal Architecture

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an approval of matters specified in conditions 1, 4-6 imposed on 19/00320/PPP (Erect a dwellinghouse and associated landscaping) on Plot 5, North Whins, Findhorn, Moray for Arboreal Architecture.

It was noted that the application had been referred to Committee as it was agreed at the meeting on 10 December 2019 that all further applications related to reference 19/00320/PPP be reported to this Committee.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/01094/AMC subject to the following conditions and reasons:

1. That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
 - (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby granted forms part of, and is related to, the development granted planning permission under formal decision notice 19/00320/PPP dated 4 November 2019 wherein the terms and conditions as attached to that permission are hereby reiterated and remain in force in so far as they relate to the development hereby approved, in particular Conditions 10-20 inclusive, including any details already approved there under to discharge the requirements of the identified conditions.

Reason: To ensure an acceptable form of development and that it progresses in accordance with the already approved and required details.

3. Development shall not proceed except in accordance with the Drainage Statement by whitby wood (ref: P450000-FN-C-0001) for 601 North Whins, Findhorn received on 10 August 2022.

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

4. All landscaping works shall be carried out in accordance with approved plan 156-2.20 REV – H. Unless otherwise agreed in writing with the planning authority details all planting, seeding or turfing shall be carried out in the first planting season following the first occupation of any of the units hereby

approved. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area and because no such information was included with the application.

5. Parking provision shall be two car parking spaces for the dwelling house. The car parking spaces shall be provided within the space as per the drawing No. 156-1.00, prior to the first occupation and thereafter the parking spaces shall 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.

6. For the avoidance of doubt, the annexe hereby approved shall be used solely for purposes incidental to the enjoyment of the dwelling hereby, currently known as 'Plot 5, North Whins'. At all times it shall be used for purposes incidental and ancillary to the use of that existing property and not used, let or otherwise disposed of as a separate unit of accommodation nor used for any other purpose.

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

9. MORAY LOCAL DEVELOPMENT PLAN 2027 – BUSINESS NEEDS AND WOODLAND STRATEGY PROCUREMENT REQUIREMENT

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve the appointment of external consultants to carry out a Business Needs Survey and a Woodland Strategy, both of which will be used to inform the Evidence Report stage of the new Local Development Plan (LDP) and the Regional Spatial Strategy (RSS).

During discussion surrounding the Woodland Strategy, it was queried whether previous decisions relating to woodland use had been considered, particularly in relation to biomass and predicted fuel sources.

In response, the Strategic Planning and Development Manager advised that these were issues were being considered and that briefs in relation to the Business Needs Study and the Woodland Strategy are being prepared within his Team and that he would share these with members of the Committee following the meeting. This was noted.

Following consideration, the Committee agreed:

- (i) the appointment of external consultants to undertake a Business Needs Survey and a Woodland Strategy for Moray;
- (ii) to note that the Strategic Planning and Development Manager would share the briefs in relation to the Business Needs Study and the Woodland Strategy following the meeting.

10. TOWN CENTRE IMPROVEMENT PLANS

Under reference to paragraph 10 of the Minute of the meeting of this Committee dated 18 January 2022, a report by the Deputy Chief Executive (Economy, Environment and Finance) asked the Committee to note the representations received to the draft Town Centre Improvement Plans (TCIP) and agree the Council's response to these, approve the final TCIP for Aberlour, Buckie, Dufftown, Forres, Keith and Lossiemouth and Delivery Plan, and agree the allocation of funds for TCIP proposals as set out in section 5.4 of the report.

During her introduction, Ms Webster, Senior Planning Officer (Strategic Planning and Development) advised that recommendation iii) in the report should include reference to section 5.2 and 5.4 of the report. This was noted.

During discussion surrounding the Economic Recovery Fund, in particular, £10k being allocated for the refurbishment of public toilets in Aberlour, it was queried whether Community Groups in Aberlour could be consulted on the most appropriate way to use this money to benefit the community.

In response, the Head of Economic Growth and Development suggested that the decision on how the £10k spend for Aberlour Public Toilets and public realm works be applied be delegated to himself following public consultation as part of the new local development plan and in consultation with Ward Members. This was agreed.

Thereafter, the Committee joined the Chair in commending Officers in bringing forward the Town Centre Improvement Plans and thereafter agreed:

- (i) to note the representations received to the public consultation on the draft TCIP for Aberlour, Buckie, Dufftown, Forres, Keith and Lossiemouth and the Council's response to these set out in Appendix 1;
- (ii) to approve the final TCIP and Delivery Plan for Aberlour, Buckie, Dufftown, Forres, Keith and Lossiemouth set out in Appendix 2 and that these will be a material consideration in the development management process;
- (iii) the TCIP projects set out in section 5.2 and 5.4 of this report are to be funded through the Place-based Investment Fund (PBIF) for the financial year 2022/23 and Economic Recovery Fund (ERF) for the financial year 2023/24;
- (iv) to delegate to the Head of Economic Growth and Development the £10k spend for Aberlour Public Toilets and public realm works, which will be subject to public consultation as part of the new local development plan and consultation with Ward Members to determine how the £10k funding will be applied.

11. BROWNFIELD SITES – SHORTLIST

Councillor Cameron re-joined the meeting at this juncture.

Under reference to paragraph 17 of the Minute of the meeting of this Committee dated 1 March 2022, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the assessment of brownfield sites, the prioritisation of sites and next steps to assess feasibility and develop options.

During discussion surrounding the redevelopment of brownfield sites in town centres, it was queried whether consideration could be given to the provision of accommodation for 2-3 groups and nursery children due to a shortage of provision in this area.

In response, the Strategic Planning and Development Manager agreed to this request.

Thereafter, the Committee agreed:

- (i) that the sites identified at 4.3 are taken forward in the short term for further investigation and feasibility work;
- (ii) to delegate authority to the Head of Economic Growth and Development to incorporate substitute sites to be taken forward for feasibility work should funding not be secured for other priority sites or any of the sites prove at an early stage to be unfeasible; and
- (iii) that consideration be given to the provision of accommodation for 2-3 groups and nursery children when considering redevelopment of brownfield sites.

12.SUSPENSION OF STANDING ORDERS

The Chair sought the agreement of the Committee to suspend Standing Order 75 to allow the meeting to continue beyond 12.45 pm. This was agreed.

13.QUESTION TIME

Councillor Warren welcomed the reinstatement of site visits however queried how these had been reinstated as she was of the view that a decision had to be made by Full Council.

In response, the Head of Economic Growth and Development explained that the original report had asked for agreement to temporarily suspend site visits due to the restrictions in place as a result of the Covid-19 pandemic and, as these restrictions are now lifted, it was considered that site visits could automatically resume without the need for a further report to Council.

The Legal Adviser apologised to the Committee stating that she had been of the understanding that a report to Council lifting the suspension was required which is why she had given this advice consistently. This had subsequently proved not to be the case.

Councillor Leadbitter sought an update on the Pop-Up Shop Scheme as he was aware of businesses that are keen to use it.

In response, the Head of Economic Growth and Development advised that Officers are trying to progress the scheme however there are some difficulties in relation to obtaining lease agreements. He further advised that the suitability of some premises in the High Street in Elgin are currently being considered.

Councillor Ross made reference to the recent Public Inquiry in relation to the Clash Gour and Rothes III developments where the decision made by the Council to object to the development was overturned by the Reporter with consent being granted for both developments and queried how much it had cost the Council to make representations at the Public Inquiry.

In response, the Legal Adviser advised that the external cost to the Council currently sits at around £150,000 which did not include staff time.

Councillor Ross raised concern that the Council may be reluctant to make representations on developments due to the risk of cost to the Council should the decision be challenged.

In response, the Legal Adviser advised that the Council could not compromise its policies when responding to consultations or considering planning applications and that further discussions would need to take place in this regard.

The Head of Economic Growth and Development further stated that the Council would not avoid making a representation to escape cost and would always try to defend its position. With regard to the cost to the Council in relation to the Public Inquiry process, this has been raised with the Chief Planner, the DPEA and Energy Consents Unit with a view to making the process easier and less costly. He further added that National Planning Framework 4 would shape policies in Moray in the future in terms windfarm development and how local communities could benefit from these developments.

Councillor Leadbitter asked if the Chairs of the Planning and Regulatory Services and Economic Development and Infrastructure Services Committees could raise these concerns with COSLA.

In response, both Chairs agreed to this request.

Councillor Van Der Horn raised concern in relation to developments that impact cycle and walkways, particularly in relation to the impact to the B9011 in Kinloss where the new development cuts through the existing cycle and footpath and the remedial works to the cycle and walkways were sub-standard.

In response, the Development Management and Building Standards Manager advised that she was aware of some enquires in relation to breaches of planning control on that site and would look into this further.



**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE
MEETING OF 20 DECEMBER 2022**

REPORT ON APPLICATION

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

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

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

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

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

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

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

Censure of a Councillor or an Officer

Suspension of a Councillor for up to one year

Disqualification of a Councillor for up to five years

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

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

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

WARD 04_17

22/01104/APP
14th September
2022

Proposed new recycling building at Grays Recycling Ltd
Nether Dallachy Spey Bay Fochabers
for Grays Recycling Services Ltd

Comments:

- This application is not a major application but the floor area proposed exceeds 2000m² and under the approved delegation scheme is required to be determined by the Planning & Regulatory Services Committee.
- The application was advertised for neighbour notification purposes.
- No representations have been received.

Procedure:

None.

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

Conditions/Reasons

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

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

2. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - Details of the routes for construction traffic from the A Class Road network to the site;
 - duration of works;
 - construction programme; parking provision, loading and unloading areas for construction traffic;
 - full details of temporary arrangements to safeguard pedestrian movements during the construction period;

- full details of any temporary access;
- 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 including any specific instructions to drivers; and
- a programme of monitoring for all routes identified within the CTMP during construction will be required.

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

3. All drainage proposals shall be in accordance with the submitted report entitled Surface Drainage Design Report, by Campbell of Doune Ltd dated July 2022 and approved drawings 2749-031 and 301 and shall be provided in full prior to the first use of the building 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.

4. All planting shall be carried out in accordance with approved plan 2749 -032 rev B and shall be carried out in the first planting season following the completion of the building hereby approved. Thereafter the landscaping and planting shall be maintained as detailed on the approved plan.

Reason: To ensure that the landscaping and associated biodiversity enhancement are timeously provided.

Reason(s) for Decision

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

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

List of Informatives:

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary.

The roads from the A98 to the site (U8E Enzie - Cunninghaugh Road and U9E Auchenhilrig Road) and the road from the site to East of Portgordon (C16E Byres - Tannachy Road) would not be suitable for the movement of construction traffic.

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

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

SCOTTISH WATER have commented as follows:

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via our Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.

If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found here.
SW Public General.

Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
301	Surface Drainage arrangement
2749-LP	Location plan
2749-030	Elevations and floor plans
2479-031	Site plan and sections
2479-032	Landscaping plan

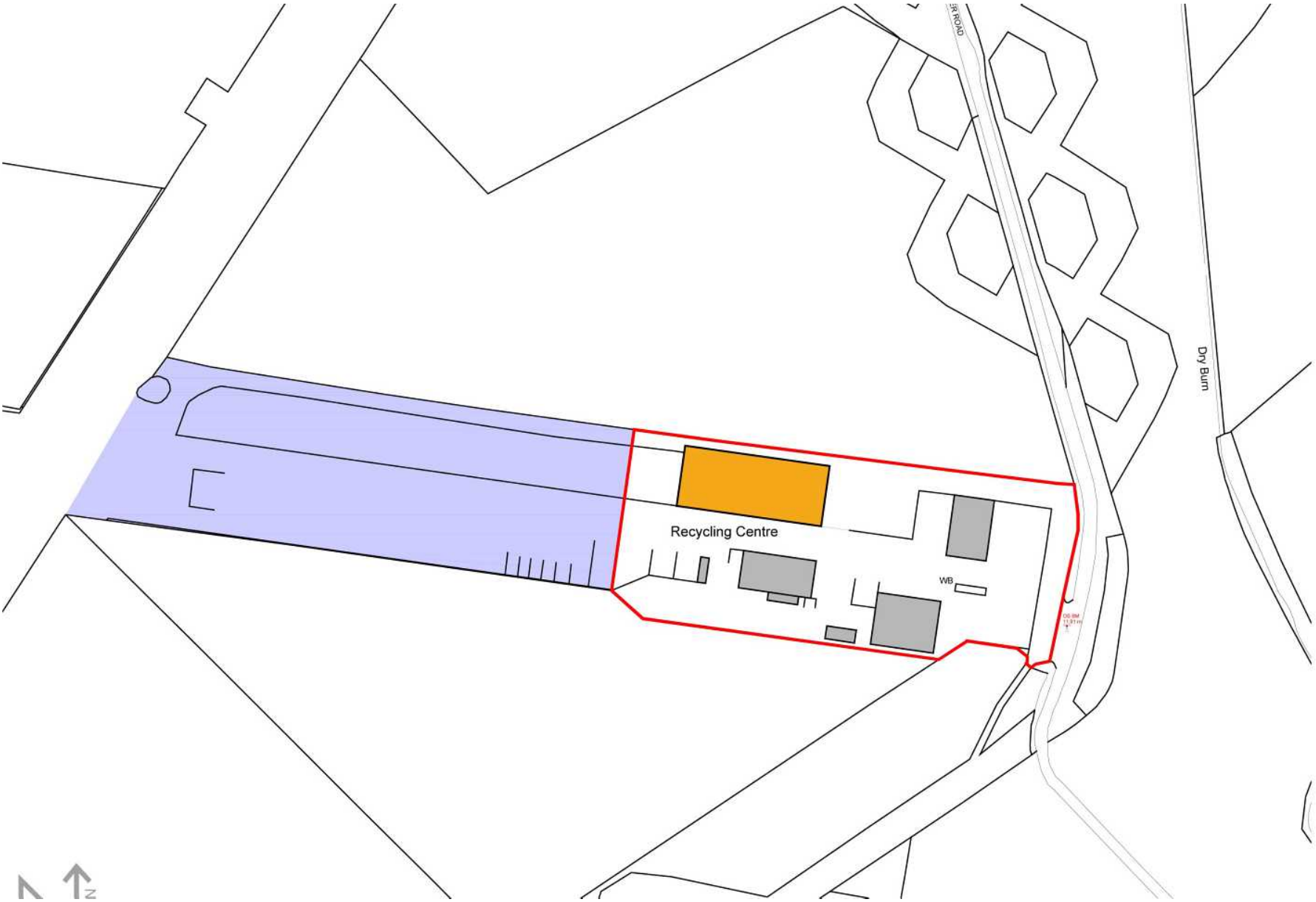


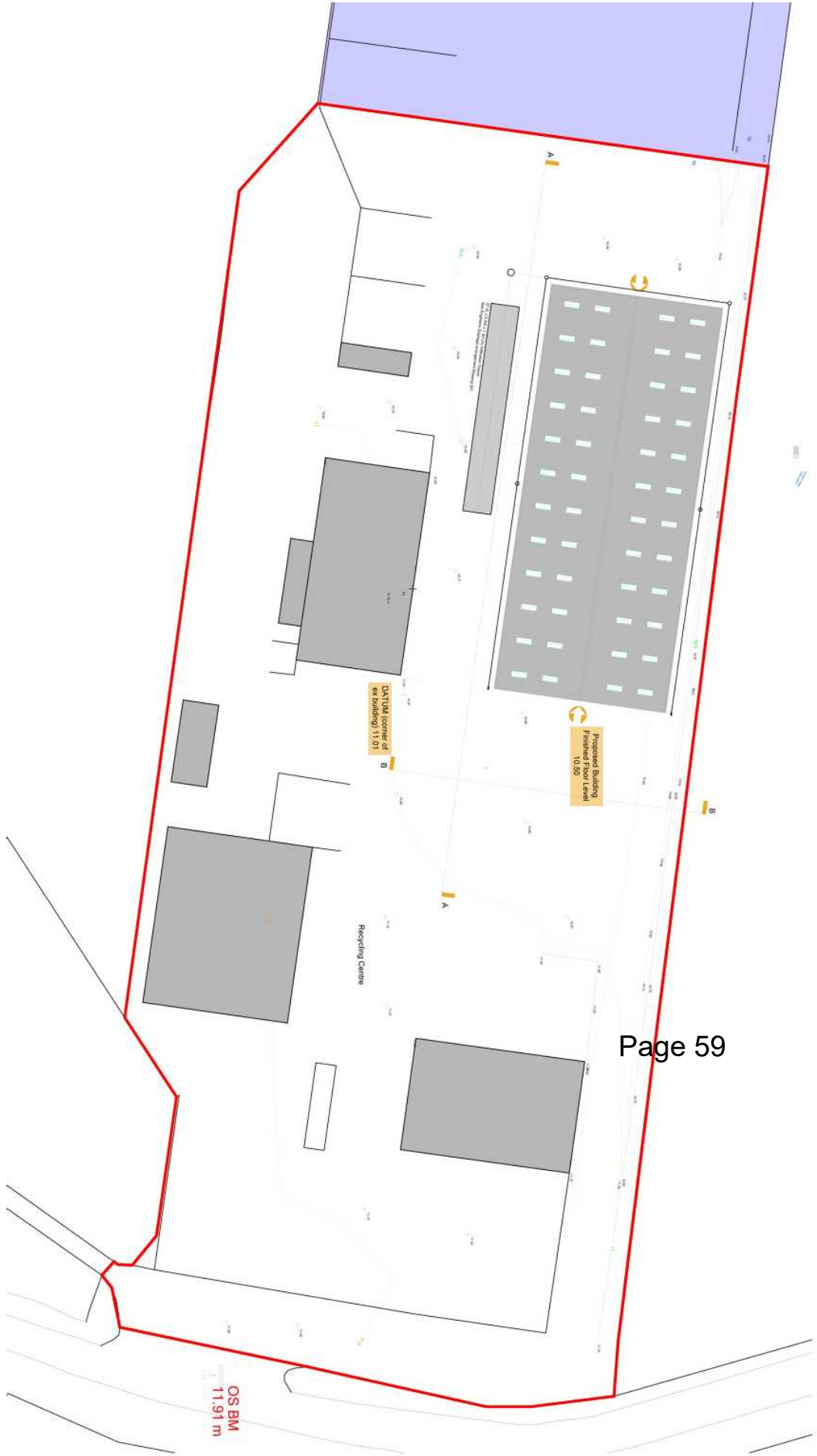
Applicant Name:
Grays Recycling Services Ltd

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Site Location

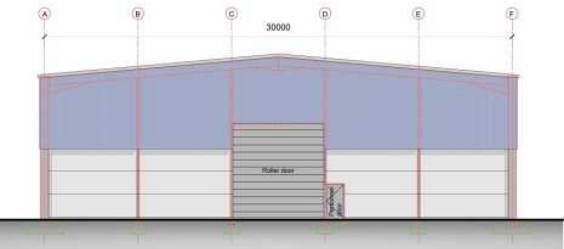




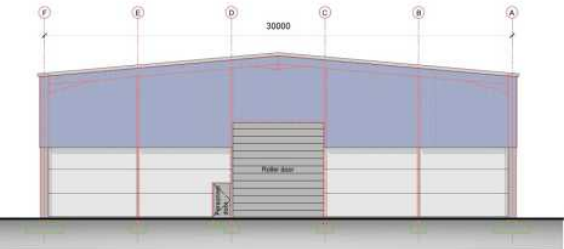
Landscaping



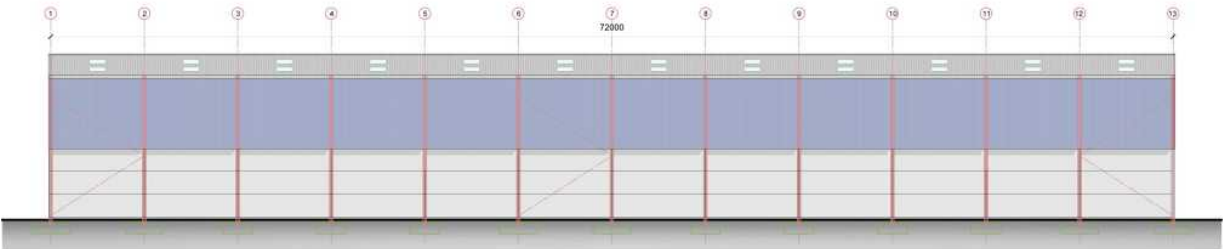
Elevations



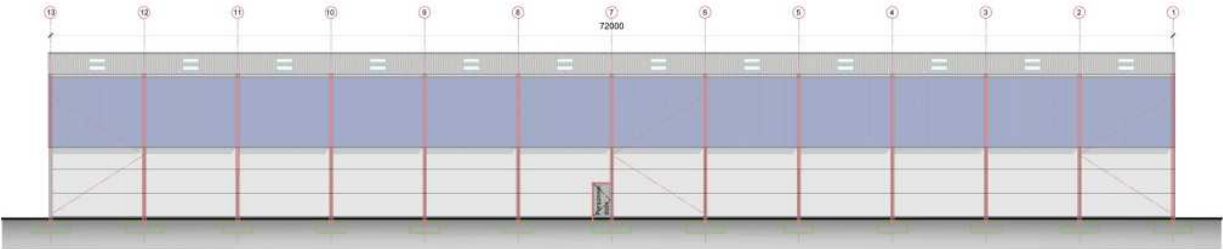
East Elevation
Scale 1:200



West Elevation
Scale 1:200



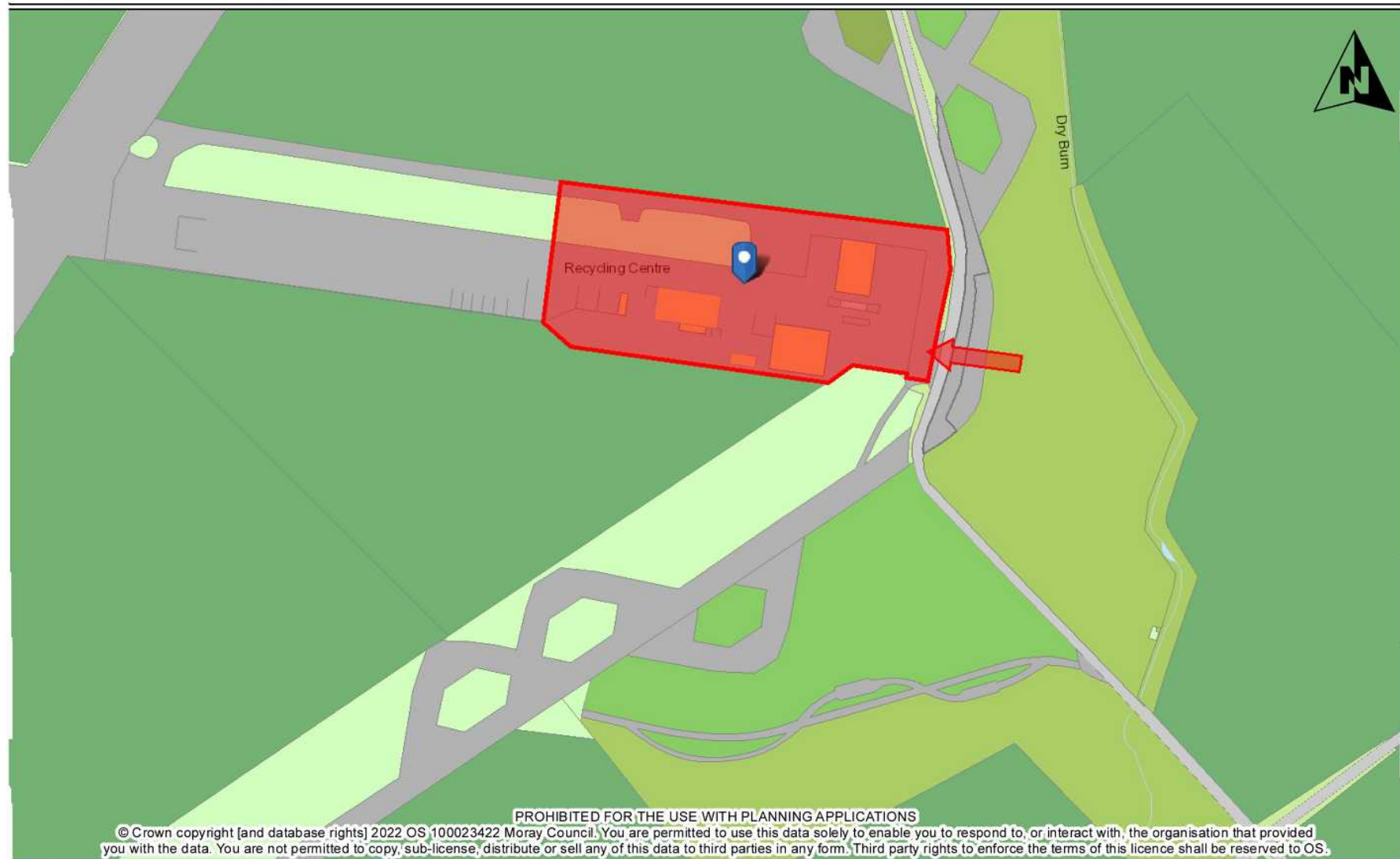
South Elevation
Scale 1:200



North Elevation
Scale 1:200

Photo location plan

Moray Council Map



Map Description: a Description of a Moray Council Map

Scale: 1:2,798 @ A4





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

1. **THE PROPOSAL**

- This application seeks planning permission for a building to house recycling operations at an existing recycling site.
- The proposed building measures 30m x 72m and will be 10.94m to the ridge.
- The building will have concrete walls with blue metal sheeting on the roof and upper parts of the walls. The blue will match the colour of existing buildings on site.
- The output of the site will remain 20,800 tonnes per year and there will be no increase as a result of this development.
- The operational hours of the site are 0730 – 1730 Monday – Friday and 0730 -1200 on a Saturday. These will not be altered.
- A landscaping plan has been provided.
- A drainage statement and supporting statement have been provided support of the application.

2. **THE SITE**

- The site is an existing recycling business on the edge of the former Dallachy Airfield.
- The site is surrounded by open countryside.
- The site extends to 2ha and includes all of the existing recycling complex.
- There is a collection of buildings on site along with skips and other external storage.
- There is an existing access from the public road which runs to the east of the site.

3. **HISTORY**

09/00856/FUL - Erect a steel portal framed building to form office workshop and secure shredding accommodation at The Old Airfield, Nether Dallachy – Granted 24.11.2009.

06/02545/FUL - Erection of prefabricated office at Disused Airfield, Nether Dallachy – Granted 26.01.2007.

4. **POLICY - SEE APPENDIX**

5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification expired 30 September 2022.

6. **CONSULTATIONS**

Transportation: No objection subject to a condition relating to the provision of Construction Traffic Management Plan (CTMP).

Environmental Health: No objection

Moray Flood Risk Management: No objection

Contaminated Land: No objection

Archaeology: No objection

Scottish Water: No objection

SEPA: No objection on flood risk grounds. Based on available information there is some uncertainty over the accuracy of the flood maps in this location as there are no records of flooding in the vicinity of the site or within the Dry Burn catchment. However, the proposal relates to an existing site so there will be no increase in the vulnerability of use, and the development will allow materials currently stored outside to be enclosed which would reduce the level of material that could be mobilised in the event of a flood so SEPA would have no concerns in relation to flood risk.

Environmental Protection (waste) – No objection. Welcome the proposal as it will enable containment of material and allow for loading and unloading of vehicles to be done without being impacted by weather conditions. Additional sorting / separation facilities is also an environmental benefit as it will allow more recyclable material to be extracted from waste stockpiles and improving the quantity and quality of recyclable material.

7. **OBJECTIONS-REPRESENTATIONS**

None.

8. **OBSERVATIONS**

8.1 Following consideration of the revised draft National Planning Framework 4 which was laid before parliament on 8th November 2022, the draft (yet to be formally adopted) is to be given no weight in the consideration of planning applications. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray

Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

8.2 **Principal of Development (DP1 & DP5)**

Policy DP5 supports the extension of rural business where there is a locational need for the site and the proposal is in accordance with all other relevant policies. The proposal forms part of a well-established business and the use will allow the continuation and consolidation of that business. There is a strong locational need for this development in this location alongside the existing business which includes several buildings and significant external storage. The proposal will allow a new sorting and picking facility to be installed which will increase efficiency and allow more recyclable material to be extracted from waste. Once this building is operational there will be no further need for external storage and vehicles will be unloaded within the building which will reduce the impact of weather. This picking and sorting machinery is similar to that in the existing building but it is more efficient. The proposal will allow the existing business to make the practices more efficient and external storage to cease. This will enhance the overall appearance of the site and reduce the risk of loose material escaping outwith the site particularly during in bad weather. The proposed building is suitably sited alongside an existing building within an established business complex. There are no immediate neighbours or other receptors who would be adversely impacted by the development. The use is appropriate to its setting and will not result in an overbearing loss of amenity. The proposal complies with policies DP1 (i) (e) and DP5.

8.3 **Design & Materials (DP1)**

The building has a basic rectangular footprint with a pitched roof. The walls will be a combination of concrete and metal sheeting and there will be metal sheeting on the roof. The metal sheeting will be blue to match existing buildings on site. The building has a simple and functional appearance that reflects the intended use and is in keeping with the character of existing buildings on site. The building is larger than the existing building on site but will be read in the context of the wider recycling complex. The site is on the edge of a disused airfield and any development is prominent in this setting. However, the site has a strong industrial character that is well established and this building is in keeping with that. The proposal is of a scale and character that is appropriate to the surrounding area and the development complies with policy DP1 (i) (a).

8.4 **Landscaping & Biodiversity (EP2 & EP5)**

Policy EP2 requires proposals for more than 1000m² to create new or enhance habitats of ecological and amenity value. This proposal is supported by a landscaping plan which shows an area of new planting at the entrance to the site alongside the public road. This includes an area of wildflower meadow along the roadside and planting of native species in the north east corner. The area of landscaping proposed is relatively small in relation to the overall site but the proposal is considered to be commensurate with the scale of development proposed in this application. The proposed landscaping will create new foraging and habitat opportunities for birds and other species. In addition to creating a new habitat the proposed area of landscaping will enhance the entrance to the site and will be of amenity value to the overall site. The

proposal will create a biodiversity and amenity enhancement and therefore comply with policies EP2 and EP5.

8.5 Flood Risk (EP12)

The site is identified on SEPA Flood Risk Maps as being at risk of both fluvial and pluvial flooding. SEPA have highlighted that there might be some doubt over the accuracy of the mapping in this location as they have no records of flooding in the vicinity or within the Dry Burn catchment. Nonetheless the site is identified on the maps and the proposal is assessed on that basis. SEPA advise that they have no objection on flood risk grounds. This assessment is based on the fact that there is a strong locational need to site this building alongside the existing operation and there is no change in the vulnerability of use of the site. Furthermore, it is noted that some of the material that will be stored in the proposed building is currently stored outside and this building would therefore reduce the level of material that might become mobile in the event of a flood. It is therefore concluded that the development will not be at significant risk of flooding nor will it increase the risk of flooding elsewhere. The proposal therefore accords with policy EP12.

8.6 Drainage (EP12)

It is noted above that the site is identified as being at risk of both fluvial and pluvial flooding. A detailed Drainage Impact Assessment has been provided in support of the application which sets out the justification for the proposed soakaway. Moray Flood Risk Management have reviewed and are content with this information, and have no objection to the proposals. A condition is recommended requiring the drainage proposals to be implemented in full in accordance with the proposed details. The proposals will ensure that surface water is effectively managed in a sustainable manner in accordance in with policy EP12.

8.7 Access and Parking (DP1)

No changes are proposed to the existing access from the public road or to the current parking arrangements. Given that the proposal does not represent a significant expansion in the operation the Transportation Manager is content that no alterations or improvements are required. A condition is recommended requiring the submission of a Construction Traffic Management Plan. This must include details of the route of construction deliveries, arrangements for unloading as well as the movement of construction vehicles on site. The recommended condition will ensure that construction traffic is effectively managed. The proposals comply with policy DP1.

Conclusion

The application will allow the consolidation of an existing business. The building is suitably sited and is designed in a manner that is appropriate to the surrounding area. The proposal accords with policy and all technical matters have been adequately addressed. The proposal is recommended for approval.

REASON(S) FOR DECISION

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

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

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi- functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and

Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.

- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

(d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.

(e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
 - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
 - iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
 - iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
 - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
 - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
 - vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
 - viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
 - ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road

widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP5 BUSINESS & INDUSTRY

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

b) Business Parks

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

c) Industrial Estates

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

d) Existing Business Areas

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

e) Other Uses

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (sui generis), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

g) Rural Businesses and Farm Diversification

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

h) Inward Investment Sites

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must

safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m² or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

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

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

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available;

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

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

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

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

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

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

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD) water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

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

c) Hazardous sites

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

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

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

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

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

WARD 01_17

22/01544/APP
27th October 2022

Change of use from agricultural use to temporary outdoor nursery to be used March to October 2023 during the refurbishment and extension of the nursery at Aberlour Primary School at New Cemetery Aberlour Cemetery High Street Aberlour for Moray Council

Comments:

- Advertised as a departure from Moray Local Development Plan 2020.
- A site visit will have been carried out.
- The application is being made by the Planning Authority and relates to Council land.
- This application seeks consent for a temporary outdoor nursery to be sited on Council owned land in the village of Aberlour. It is required whilst the existing nursery at Aberlour Primary School is refurbished which is due to commence in 2023.
- The application is being considered by Committee as it raises matters of wider community interest.

Procedure:

- None required.

Recommendation

Grant Planning Permission - subject to the following:

Conditions/Reasons

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

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

2. No development shall commence 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) Construction programme;
- b) Details for the removal of any excavated materials from site including the estimated volume and destination(s) for disposal.
- c) Full details of any temporary construction access or the construction traffic route between the site and the A95;
- d) Traffic management measures to be put in place during works including any specific instructions to drivers; and
- e) Details of any temporary construction compounds or parking provision.
- f) The Plan shall also cover the construction phase when the structures are removed and the ground reinstated.

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.

- 3. The development hereby approved shall not be brought into operation until the 1.8m high close boarded fence has been erected in accordance with the approved plans. The fence shall be retained thereafter in accordance with the approved plans throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact upon the privacy and amenity of neighbouring properties/uses.

- 4. The development hereby approved shall not be brought into operation until the emergency pedestrian access gate on the east side of the site has been provided in accordance with the approved plans. The gate shall be retained thereafter in accordance with the approved plans throughout the lifetime of the development. For the avoidance of doubt, the fence shall be kept unlocked at all times when the nursery is in operation.

Reason: To ensure that there is adequate access/egress provision for pedestrians in any flood events.

- 5. The development hereby approved shall be operated in accordance with the approved Operational Plan and Statement on Mitigation unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure that there is no adverse impact upon the privacy and amenity of neighbouring properties/uses.

- 6. The development hereby approved shall be constructed and finished in accordance with the approved plans and drawings unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the development is appropriate to the surrounding area and integrated into the landscape.

7. The development hereby approved shall be used for a temporary period only between 1 March 2023 and 31 October 2023 unless otherwise agreed in writing with the Council as Planning Authority. All structures, fencing, hardstanding/parking area and all other development as shown on the approved plans shall thereafter be removed within 3 months of the expiry of this consent (i.e. by 31 January 2024) or within 3 months of the cessation of the operations whichever is the sooner and the land restored to grassland.

Reason: As the development has been assessed in relation to a temporary use of the site in terms of amenity, visual and flooding land use planning considerations.

Reason(s) for Decision

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

The proposal accords with the relevant provisions of the Moray Development Plan 2020 and there are no material considerations that indicate otherwise.

List of Informatives:

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

Please contact the Building Standards Duty Officer in order to ascertain whether a Building Warrant will be required for these proposals between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail buildingstandards@moray.gov.uk

The developer should note that Scottish Water have advised that they have live infrastructure (combined sewers, and water mains) in proximity of development area so developer must identify any potential conflicts with them – more detail in their consultation response.

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

In the event that any application is lodged seeking to extend the period of use of the nursery hereby approved, such an application must incorporate a detailed Flood Risk Assessment.

As the permission sought is temporary and reversible in nature, it would not warrant a recognised increase in land use vulnerability on a permanent basis and any future development proposed for the site must be treated as a potential increase in flood risk. The principle of development as a 'Most Vulnerable' land use has not therefore been established at the site.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
61680_SK-102		Site sections elevations
61680 TON SK 001		Site location plan
61680-SK-100	B	Site and layout plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
22/01544/APP

Site Address:
New Cemetery Aberlour Cemetery
High Street Aberlour

Applicant Name:
Moray Council

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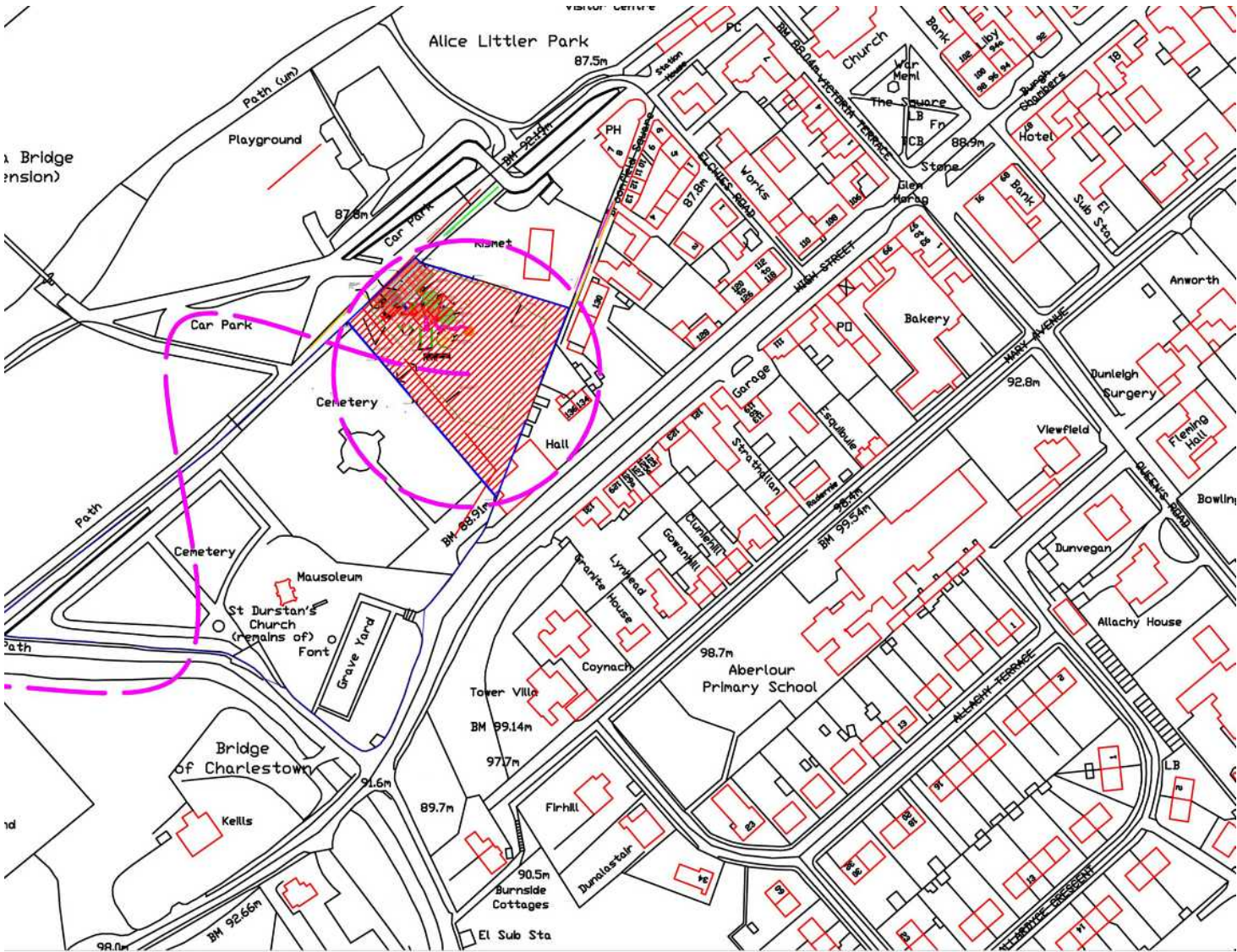
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Location Plan



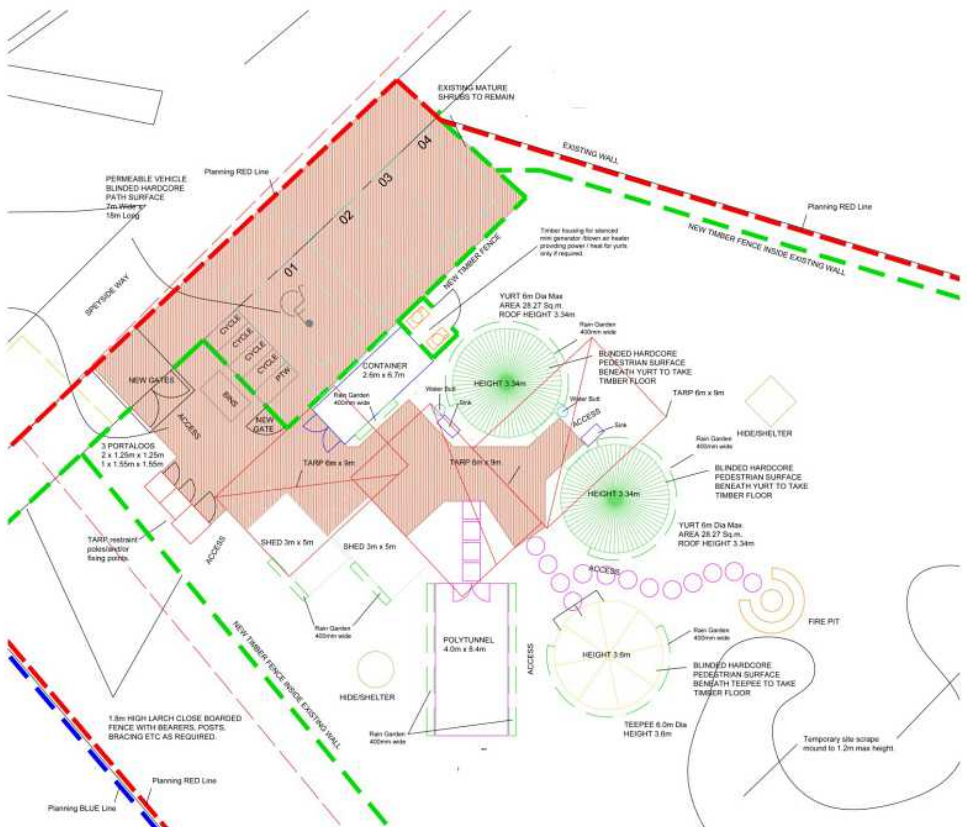
Site Location



Site and layout plan

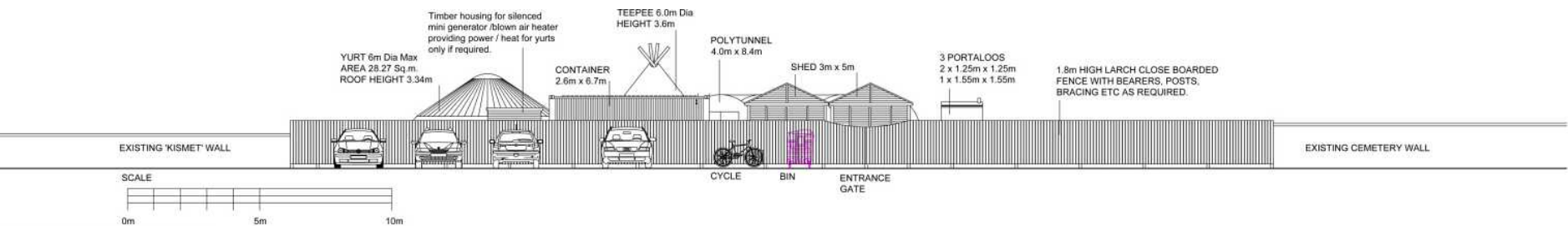


SITE PLAN
SCALE 1:250

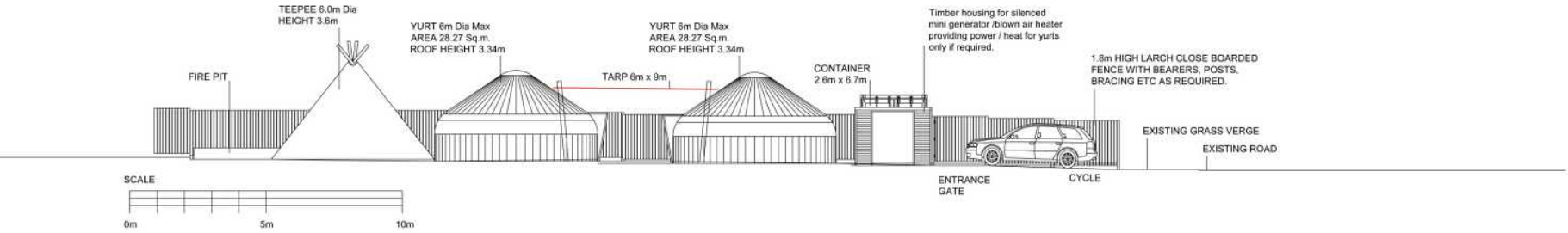


LAYOUT PLAN
SCALE 1:125

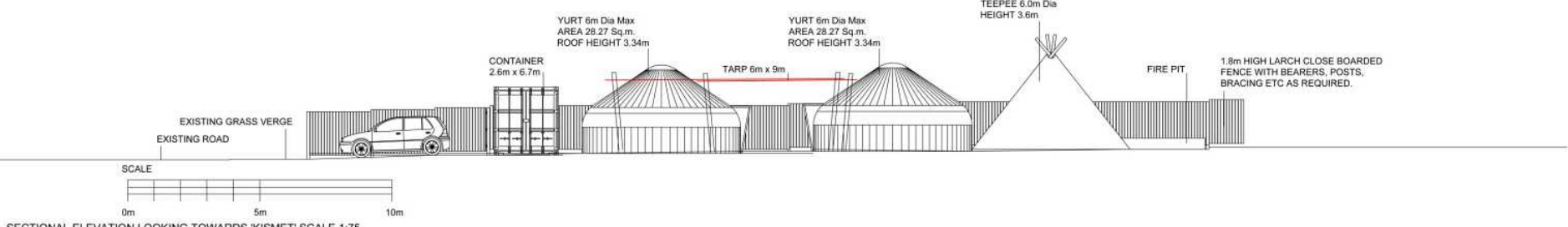
Site sectional elevations



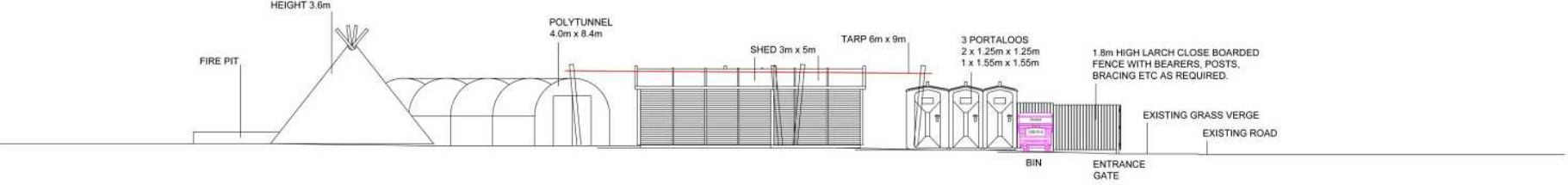
ELEVATION FROM STREET SCALE 1:75



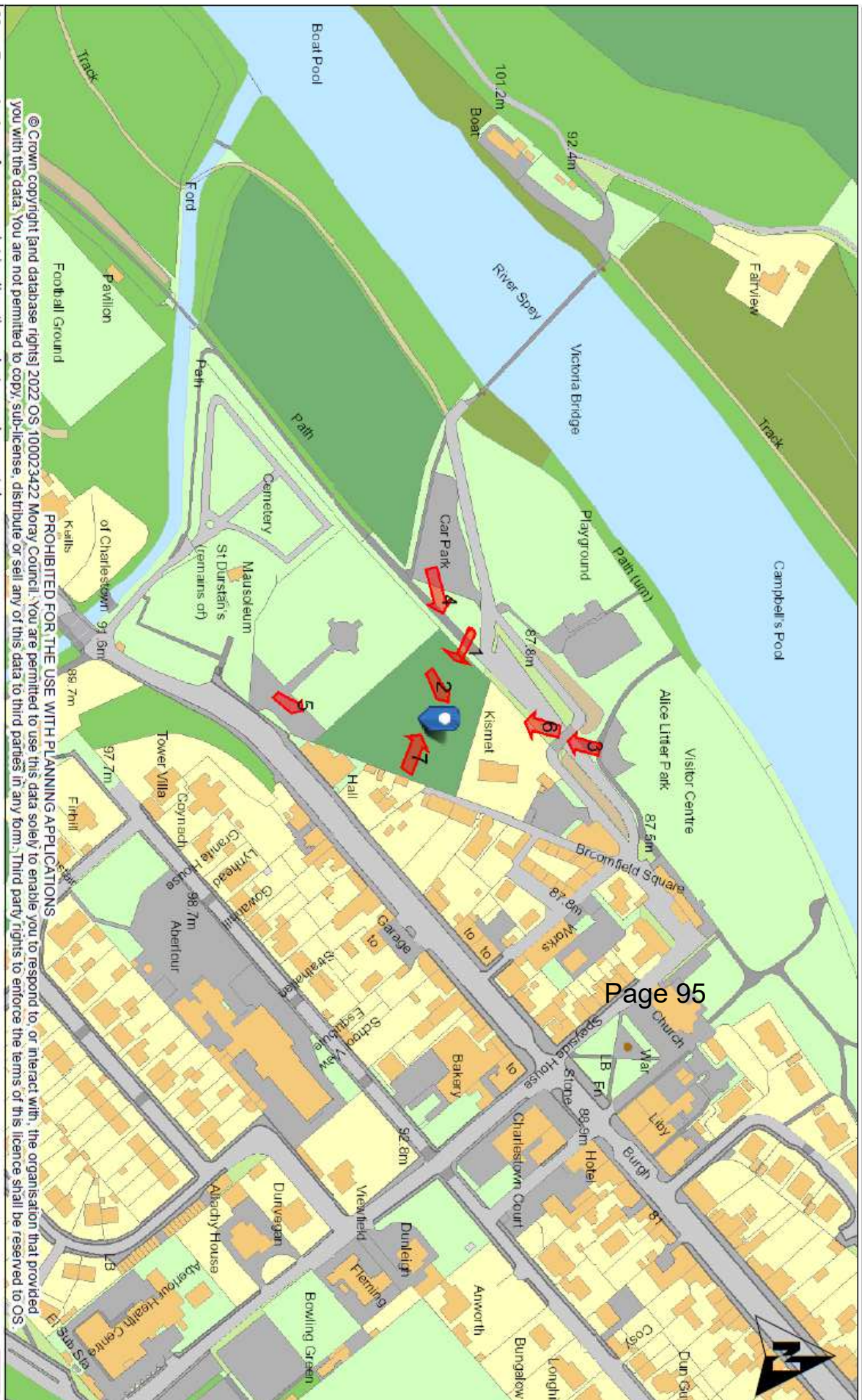
SECTIONAL ELEVATION LOOKING TOWARDS CEMETERY SCALE 1:75



SECTIONAL ELEVATION LOOKING TOWARDS 'KISMET' SCALE 1:75



SECTIONAL ELEVATION LOOKING TOWARDS 'KISMET' SCALE 1:75



Map Description: Arrows point in direction photograph was taken

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Scale: 1:2,500 @ A4



Photo 1 looking to High Street



Photo 2 looking to Kismet



Photo 3 looking over site from bridge



Photo 4 looking to High Street & from by Speyside Way



Photo 5 looking to site from cemetery car park



Photo 6 looking to site from access road



Photo 7 from houses



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

1. **THE PROPOSAL**

This application seeks full planning permission for the change of use of a small field to form a temporary outdoor nursery during the refurbishment and extension of the existing nursery at Aberlour Primary School. The temporary nursery will be required from March to October 2023 with use of the facilities only taking place during term times.

The key features of the proposals are as follows:

- Parking area with permeable finish to be formed adjacent to road leading to Alice Littler car parking area with access to site for children taken through access point in fencing to be erected.
- 4 parking spaces plus cycle and powered two wheeler provision to be made.
- A 1.8 metre high close boarded larch fence is proposed around the site, along the entire site frontage to the road (set back behind the parking area) and then set some 10 metres northwards into the site from the cemetery to the south and around 8 metres at points from the housing to the east to create a “buffer zone”.
- Siting of temporary structures including two yurts (roof height 3.34 metres), wigwam/teepee, polytunnel, container, two small pitched roof wooden sheds and tarpaulin covered areas supported on struts/poles. Two hide/shelters are proposed along with rain gardens, fire pit and paths.
- The closest of these structures to the housing to the east will be around 30 metres from the mutual site boundary with the facilities to be located in the western part of the site.
- Silenced mini generator or blown air heater will be used for heating - these will be enclosed in timber housing.
- All ground excavated to create the areas for the facilities will be stored on site in bunding of maximum height 1.2 metres and reused in site reinstatement. Minimal excavation of around 150 mm is anticipated.
- It is not proposed to connect to public water or drainage services, but rather to have an off-grid facility with no new buried servicing. Siting of three portaloos is proposed, bottled water for hand washing serviced by the nearby station tea room with facilities for handwashing provided in the messy play sinks in the tarpaulin covered area and in the polytunnel similar to other outdoor nurseries. This polytunnel will have a hard surface floor.
- Washing of equipment and utensils is to be dealt with by the existing catering assistant at Aberlour Primary school, with back up provision being an agreement to access facilities within the former railway station building.

- Following discussion with SEPA an emergency pedestrian access gate is proposed in the south east corner of the site leading into the adjacent cemetery area with access then onto the High Street.
- Opening hours anticipated to be term time only from 8:50 am to 2:50pm.

As noted above these new facilities are required in order to accommodate the children attending the existing Council operated nursery at the primary school whilst the nursery is being refurbished to meet current standards and to ensure continued nursery provision within Aberlour. It is understood this involves around 20 children. The applicants considered a range of alternative sites in the area with the application site chosen for reasons of availability/ownership, proximity to school so avoiding additional transport issues for parents, central location in village and access to nearby facilities for staff breaks and hot running water.

Supporting information has been provided including:

- Operational statement outlining the measures to be taken to minimise disturbance during funeral services including engaging with churches, funeral parlours etc. regarding services and making plans to either take the children inside the yurt at such times for quiet activities or in good weather to take them to a suitable outdoor venue such as the adjacent Alice Littler park. A buffer zone is also proposed around the site with fence erected to separate the activities from the cemetery.
- Statement of mitigation measures including timber fence set into site to create buffer zone from sensitive users in terms of privacy and noise reduction, use of permeable surfaces on areas which are exposed to rainfall, with storm water run-off to be collected in water butts and reused. Additional traffic will be generated as this is a temporary relocation of an existing facility with most users/workers able to continue their existing pattern of travel due to the proximity to the existing nursery.

2. **THE SITE**

- Small field within the settlement of Aberlour, directly adjacent to Aberlour cemetery.
- Currently grassland of around 0.37 hectares with a 35 metre site frontage.
- Fronts road leading to Alice Littler Park with Speyside Way running westward along the south western part of the site frontage.
- The site sits within the ENV9 designation 'Cemeteries and proposed extensions' within the Aberlour Settlement Statement.
- To north west of the site is the car park serving the Alice Littler Park and recycling centre with the park beyond this leading to the River Spey.
- A detached residential property at Kismet lies to the north in its own gardens with block wall and vegetation along this boundary.
- Residential properties lie to the rear (east) of the site at 132 A High Street with stone boundary wall along this boundary. Further south east along this rear boundary lies the rear gardens of 134 -136 High Street with the former hall (now dental practice) further south east again along this boundary.
- Aberlour Cemetery lies to the south with a stone wall along this boundary.

3. **HISTORY**

There is no history on the site itself.

Relevant planning history is:

20/01374/APP - Alter and extend accommodation provide temporary classroom accommodation and upgrade the nursery garden at Aberlour Primary School Nursery - consent granted for this and accompanying Listed Building application. This site lies on Mary Avenue to the south.

4. **POLICY - SEE APPENDIX**

5. **ADVERTISEMENTS**

- 5.1 The proposal has been advertised in the local press as a potential departure from the Development Plan and for neighbour notification purposes.

6. **CONSULTATIONS**

Transportation Manager: No objections subject to condition requiring a Construction Traffic Management Plan being agreed. The Transportation Manager is satisfied with the access arrangements to the location, subject to conditions recommended.

Environmental Health: On receipt of further information on toilet and hand washing facilities have now confirmed they are satisfied with the proposed arrangements.

Flood Risk Management: No objections.

Estates: No objections.

Access Manager: No objections.

Archaeology Service: No objections.

Contaminated Land: No objections.

SEPA: Initially advised that information submitted was insufficient to determine the flooding impacts given the location of the site within an area at risk of flooding from the River Spey. Further information was required on alternative sites considered, emergency flood access/egress for pedestrians and consideration of siting of infrastructure to avoid flood risk. On receipt and consideration of this further information SEPA has now advised that given the temporary nature of the proposal, it would be acceptable and would not constitute a 'most vulnerable' use. If it were to become more permanent, then a detailed Flood Risk Assessment would be required.

Scottish Water: No objections. Note that they have live infrastructure (combined sewers, and water mains) in proximity to the development area so developer must identify any potential conflicts with these services.

7. **OBJECTIONS-REPRESENTATIONS**

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

A representation has been received from the local Community Council who have noted that whilst they support the creation of outdoor learning nurseries they object to the proposed development which they consider to be on an unsuitable site for the following reasons, even for a 6 month period.

Issue: Access to and from the site is unsuitable. Footpath past the old Packhorse Bridge onto the Speyside Way is not suitable for buggies, no footpath along Elchies Road, no footpath from the Church, tea rooms and Mash Tun. Generation of additional traffic in a busy location where roads serve the park and recycling centre. Roads are narrow in places with no separation of pedestrians and vehicles, and no safe walking route for people with young children.

Comment (PO): The relevant consultee (Transportation Manager) has no objections to the proposals. In relation to the points raised by the objector the Transportation Manager has highlighted that the site is accessed from the existing network which is in constant use by pedestrians, cyclists and vehicles accessing, amongst other things, the Alice Littler Park, recycling facilities, Speyside Way, Old Station and Mash Tun. The park area and square are notably busy with school children during breaks and after school. The activity and layout of the access route to the carpark encourage a change in driver behaviour which promotes reduced driving speeds and urges a more cautionary driving style.

Vehicle drivers already expect to see non-vehicular activity sharing access in the area and an increased presence of non-vehicular activity would further diminish any sense of vehicular dominance and reinforce positive behaviours. Children travelling to the nursery would be expected to be accompanied by an adult at all times which reduces the risks compared with an unaccompanied minor. Whilst it is accepted that there is likely to be an increase in traffic volume associated with the nursery, the use is identified as temporary and the nursery could take proactive steps to promote walking and cycling to the site which would be supported.

Issue: Site is too close to fast flowing River Spey with the Alice Littler Park and Speyside Way being flooded in 2009, 2014 and 2017 between March and October.

Comment (PO): The site lies partially within an area identified by SEPA's flood maps as being at risk of flooding. Relevant technical consultees were therefore consulted. The Flood Risk Management Team has no objections to the

proposals. Following submission of further information as noted in the consultation section of this report SEPA has advised given the temporary nature of the site, the proposed pedestrian gate leading east away from the site, SEPA raises no objection to the application. The wider locality, susceptible to flooding is already used for recreation/play.

Issue: Concerns regarding large numbers of people passing the site – queries whether CCTV will be installed.

Comment (PO): The site will be enclosed by a 1.8 metre high fence which will safeguard the privacy of the users of the facility. The installation of CCTV is a matter for the applicants to consider and not a land use planning consideration. There is no policy requirement for surveillance.

Issue: Environmental health concerns relating to lack of running water for children to wash their hands, no changing or washing facilities for children who use nappies/incontinence pads with toilets at Tea Room not suitable for this as well as leaving the nursery understaffed if staff need to take children there.

Comment (PO): The Environmental Health Section has been consulted and sought further information on washing arrangements as set out in the consultations section. The section have confirmed that they are satisfied about the use of bottled water, and other arrangements for hygiene.

The proposed temporary development will be operating “off grid” which is not unusual with outdoor nurseries. It is understood that the Care Inspectorate have been involved with the development of this facility and are supportive of the outdoor decant plan which has been planned in accordance with Care Inspectorate and Scottish Government guidance on outdoor play. In any event the development will be regulated by the Care Inspectorate and this will cover staffing and welfare issues which are not the remit of the Planning Authority.

Issue: Concern regarding conflict with adjacent cemetery use. Note the intention to consult with the Church regarding funeral times – highlight the Church does not carry out all funeral/burials in the cemetery and other bodies will need to be consulted. Also highlight that people visit graves other than at funerals and this needs to be considered noting it is difficult to keep a large group of children quiet.

Comment (PO): This point has discussed with the Open Space Manager who has provided advice on how best to liaise with relevant funeral providers. This has been included in an operational plan submitted by the applicants. The Open Space Manager has further commented that points of contact should be established with the Registration Service who manage funeral bookings and the Open Space Cemetery Team Leader who manages and oversees funerals at the cemetery. Users of the site would however be mindful not just of funerals but also of bereaved families/visitors who routinely visit this well-attended cemetery.

This plan explains how the applicants will liaise with relevant bodies and ensure that the children are either taken off site for outdoor play or have a quiet time in the yurts at times of funeral services. Cognisance will also be taken of how to ensure there is no significant conflicts with bereaved persons visiting the cemetery with the buffer zone of around 10 metres to be provided from the cemetery boundary with the facilities set behind a screen fence to reduce

impacts. Furthermore the proposed nursery use will have limited opening hours and will not involve weekends whereby potential conflicts may be minimised.

It is also noted that there is a recreational park and the Speyside Way already close by the cemetery whereby there is a degree of recreational use and associated disturbance in the area at present. Cemeteries within settlements are typically subject to background noise/activity even when interments are under way.

Issue: Related to the above point of taking children off site at times of funerals, concern is raised regarding ratio of staff to pupils for taking such young children off the site in a location so close to the fastest flowing river in Scotland.

Comment (PO): The level of staffing of a nursery is not a land use planning consideration. It will however be considered by the relevant authority (Care Inspectorate) who will ensure that children's' safety and welfare is fully taken into account. The site is proposed to be enclosed such that children would not be able to walk toward the river. A public park and play areas are already within proximity of the River Spey, where no segregation exists.

8. **OBSERVATIONS**

8.1 Following consideration of the revised draft National Planning Framework 4 which was laid before parliament on 8 November 2022, the draft (yet to be formally adopted) is to be given no weight in the consideration of planning applications. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below.

8.2 **Background**

As noted previously this application is for a temporary outdoor nursery to be sited on Council owned land in the village of Aberlour, required whilst the existing nursery at Aberlour Primary School is refurbished. These works are due to commence in 2023.

8.3 **Principle (Policy EP5)**

The application site is part of an area designated in the Local Development Plan as *"ENV 9 - Cemeteries and proposed extensions at Aberlour Cemetery"*. The supporting text explains that open space that contributes to the environmental amenity of Aberlour will be safeguarded from development that is not related to their current use as set out in the table which explains the uses. The Moray Council Open Space Strategy Supplementary Guidance provides more detail on the description of such spaces and describes the application site as amenity ground of poor quality as it lacks any clear function and is not readily accessible. However it notes that it is reserved for a cemetery extension with stringent requirements in place by SEPA which may compromise this aspiration. Development potential is noted as being for cemetery extension or a short term temporary use.

8.3.1 In such ENV designations Policy EP5: Open Space applies. This explains that development which would result in a change of use of a site identified as an

ENV designation in a settlement statement to anything other than open space will be refused, the only exceptions being where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its community planning partners (excluding housing) or for a site specific opportunity identified within the settlement statement.

- 8.3.2 If such an exception applies then the development requires to:
- Be sited and designed to minimise adverse impacts on the principal function of the space and the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance.
 - Demonstrate that there is a clear excess of the type of ENV and the loss of the open space will not negatively impact upon the quality, accessibility and quantity of open space provision and does not fragment green networks (with reference to the Moray Open Space Strategy Supplementary Guidance, green network mapping and for ENV4 Sports Area in consultation with SportScotland) or replacement open space provision of equivalent function, quality and accessibility is made.
- 8.3.3 The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised.
- 8.3.4 The justification for Policy EP5 explains that open space is important for many reasons including supporting healthy and active lifestyles as well as providing spaces to relax and unwind supporting mental health. The Open Space Strategy Supplementary Guidance explains that the designation of sites as ENV seeks to protect open space from inappropriate development
- 8.3.5 In this particular case the site is not used as open space, and as noted in the Open Space Strategy Supplementary Guidance lacks any clear function, with potential for short term temporary use. The application site is reserved for a cemetery extension which is the main purpose of its designation rather than as public open space. Indeed there is ample and attractive public open space in close proximity at the popular Alice Littler Park. The proposed development is for a temporary use which is in line with the description of the site in the Open Space Strategy Supplementary Guidance.
- 8.3.6 Aside from these factors, in terms of the policy background of Policy EP5 Open Space which presumes against the change of use of land covered by ENV designations, the proposed development is considered to fall into the exception category because it is for a temporary nursery required to educate children whilst the existing nursery is being refurbished. This is considered to be essential community infrastructure required to deliver the key objectives of the Council and its community planning partners given that a priority of the Corporate Plan is to provide a sustainable education service aiming for excellence.
- 8.3.7 Policy EP5 also requires such exceptions to be sited to and designed to minimise any adverse impacts on the principle function of the space and to demonstrate that there is a clear excess of this type of ENV and that it does not impact upon the quality of open space provision

- 8.3.8 The detail of the design and siting will be considered later in this report but in more general terms, as noted in the Open Space Strategy Supplementary Guidance, the application site lacks any clear function. In essence it is designated as ENV in order to reserve it for the cemetery expansion with ample open space provision in the immediate area. The temporary use proposed does not prejudice its future use for the cemetery extension, nor does it impact upon the quality of open space provision in Aberlour.
- 8.3.9 In these overall circumstances the proposed development is considered in principle to comply with Policy EP5.
- 8.4 **Siting, Amenity and Design (PP1, EP3 and DP1)**
Policy PP1 Placemaking seeks to ensure that new development is designed to create successful healthy places that improve people's wellbeing, safeguard the environment and support economic development, promote character and identity and biodiversity. Policy DP1: Development Principles sets out the need for the scale, density and character of new development to be appropriate to the surrounding area, integrated into the surrounding landscape with no adverse impacts upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity
- 8.4.1 In this regard in general terms the development is well located within the designated settlement of Aberlour, close to key community amenities such as the Speyside Way, Alice Littler Park, recycling centre and cafes. It is located within ready walking distance of the original nursery location with proximity to the Alice Littler park and Speyside Way meaning that the users of the nursery will be able to benefit from the potential outdoor education opportunities nearby, with no conflicts of use arising.
- 8.4.2 The application site is effectively a gap site whereby development here has the potential to fit into the wider streetscape. Existing townscape features such as stone boundary walls will remain unchanged and given the short term nature of the proposed development there will be no particular landscape or townscape impacts arising.
- 8.4.3 This proposed temporary development involves a collection of structures which are visually tied together by the use of timber on sheds, tarpaulin supports etc. and is considered to be appropriate for the children's educational use proposed here, helping to create a visually interesting environment. The proposed development will be screened by a screen fence which will afford privacy and security to the users, with its timber design being appropriate here. This will also help protect the privacy and amenity of adjacent residential properties together with the proposed buffer zone.
- 8.4.4 In terms of amenity issues and neighbours, the proposed site is also directly adjacent to a cemetery which is still used for burials and is well attended in terms of visits by the bereaved to gravesides. This is therefore a sensitive land use in terms of the holding of funeral services and also in terms of visitors to the cemetery, when a peaceful setting is important. As outlined earlier in the representations section the applicants have provided an operational plan to explain how any potential conflicts may be handled. This explains how the applicants will liaise with relevant bodies and ensure that the children are either

taken off site for outdoor play or have a quiet time in the yurts at times of funeral services. Cognisance will also be taken of how to ensure there is no significant conflicts with bereaved persons visiting the cemetery. The buffer zone of around 10 metres to be provided at the boundary with the cemetery, with the facilities set behind the proposed screen fence, should help to reduce impacts. Furthermore the proposed nursery use will have limited opening hours and will not involve weekends whereby potential conflicts may be minimised over the 6 month period of the development. For clarity the operational plan is sought in this instance to ensure the site generally operates as described and to ensure mitigation for neighbouring amenity is secured, but the detailed operational requirements and on-site safety considerations are overseen by the Care Inspectorate and under other legislation.

8.4.5 In these overall circumstances the development is considered to comply with policy with no significant adverse impacts on the surrounding environment and neighbouring uses.

8.4.6 Finally in terms of design and siting issues, the site is also located within the Spey Valley Special Landscape Area where Policy EP3 on Special Landscape Areas and Landscape Character applies. This policy seeks to ensure that development does not prejudice the special qualities, adopts the highest standards of design and within designated settlements conforms to relevant policies and reflects the traditional settlement character in terms of siting and design. The proposed development for a temporary outdoor nursery for 6 months is not considered to conflict with this policy.

8.5 **Environmental Impacts (DP1 and EP2)**

Policy DP1: Development Principles also sets out that development should conserve and enhance the natural environment as does Policy EP2 Biodiversity which aims to deliver biodiversity enhancements

8.5.1 There is no loss of any particular habitats arising from this development which involves rough grazing land. During the operation of the proposals there is some opportunity to deliver some habitat enhancements through the proposed rain gardens and other educational activities which may be delivered here. The proposal is therefore considered to comply with policy.

8.6 **Access and Servicing (DP1, PP3, EP12 and EP13)**

Policy PP3 Infrastructure and Services sets out how new development should be coordinated with infrastructure to ensure that places function properly and are adequately serviced. Policy DP1 Development Principles also sets out the need for appropriate servicing and access.

8.6.1 Proposed access, vehicular and pedestrian, will be off the existing network servicing the Alice Littler park and adjacent facilities with some parking (including cycle provision) provided on site. As noted in representations section earlier this existing network is in constant use by pedestrians, cyclists and vehicles accessing amongst other things, the Alice Little Park, recycling facilities, Speyside Way, Old Station and Mash Tun. The park area and square are notably busy with school children during breaks and after school. The activity and layout of the access route to the carpark encourage a change in driver behaviour which promotes reduced driving speeds and urges a more

cautionary driving style. Vehicle drivers already expect to see non-vehicular activity sharing access in the area and an increased presence of non-vehicular activity would further diminish any sense of vehicular dominance and reinforce positive behaviours. Children travelling to nursery would be expected to be accompanied by an adult at all times which reduces the risks compared with an unaccompanied minor. Whilst it is accepted that there is likely to be an increase in traffic volume associated with the nursery, the use is identified as temporary and the nursery could take proactive steps to promote walking and cycling to the site which would be supported.

8.6.2 In these circumstances the technical consultee (Transportation Team) has no objections subject to appropriate planning conditions being attached with regard to agreement on a Construction Traffic Management Plan to ensure no conflicts with other users as the construction stage.

8.6.3 Policy DP1 also requires that acceptable water and drainage provision is made including the use of sustainable urban drainage systems (SuDS) for the disposal of surface water. This is expanded upon in Policy EP12 Management and Enhancement of the Water Environment and Policy EP13 Foul Drainage. In this case water and drainage is off grid and the technical consultee (Flood Risk Management Team) has no objection to the proposed development nor has Scottish Water who have highlighted that the applicant will require to contact them regarding any assets they may have in the vicinity.

8.6.4 In these circumstances the development is capable of being satisfactorily serviced and is considered to comply with policy.

8.7 **Flooding (EP12)**

Policy EP12 Management and Enhancement of the Water Environment sets out that development will not be supported if at significant risk of flooding from any source or would materially increase the likelihood of flooding elsewhere. In this case part of the application site lies within an area identified as being at risk of flooding from the River Spey on SEPA's flood maps with SEPA holding records of flooding in the area from the Spey including the existing car park and Speyside Way at the front of the site. Nurseries are classified as a most vulnerable use in terms of SEPA's Land Use Vulnerability Guidance. Accordingly SEPA required further information on alternative sites considered, emergency flood access/egress for pedestrians and consideration of siting of infrastructure to avoid flood risk in order to fully consider flood risk here. SEPA also advised that provided that this is justifiably the only suitable site and that there is a provision of safe access and egress away from the flood plain and development within the area thought to be at risk of flooding has been minimised as much as possible, they may be able to remove their objection (subject to conditions) on flood risk grounds. As this is a temporary development, the risk of exposure to flooding is lower than it would be over a longer period of time and the level of flood risk assessment requested is only appropriate for a temporary development. SEPA do not consider the long-term risk of flooding to the site to have been adequately assessed and any application for permanent development must be supported by a more detailed flood risk assessment and clearly avoid areas at risk of flooding.

8.7.1 However, given the temporary nature of the use, and with the presence of pedestrian routes away from the source of flooding via a gate to the east side of the site, they do not consider that the temporary use is unacceptable. Moray Council's own Flood Risk Management Team also raise no objection to the proposed temporary use. Specifically in relation to policy EP12, given the temporary, reversible nature of the use proposed and the fact it would not contribute to flooding itself it is not considered to conflict with policy.

8.8 **Cultural issues (EP8)**

Policy EP8 Historic Environments seeks to ensure that there is no adverse effect on sites of local archaeological importance or the integrity of their settings. The application site is part of a wider area identified on the Historic Environment Record as the standing structure of Charlestown of Aberlour founded in 1812 by Charles Grant, Laird of Elchies, although an earlier settlement existed in this location. The Archaeology Service was therefore consulted and has no objection to the proposals.

8.8.1 To the west beyond the newer part of the cemetery is the category B listed Aberlour Burial ground, remains of the former parish church of St Drostan and the Macpherson Grant mausoleum. These historic assets are not impacted upon by the proposed development.

8.8.2 The development is therefore considered to comply with policy.

Conclusion

The proposed development for a temporary outdoor nursery required to facilitate the refurbishment of the existing nursery at Aberlour Primary School is considered to comply with Local Development Plan policies subject to appropriate planning conditions being attached relating to time periods, reinstatement, construction traffic management, operational matters and emergency egress/access in order to ensure that any impacts on the surrounding area are minimised and that satisfactory provision is made in the event of flood events.

Approval is therefore recommended on this basis.

REASON(S) FOR DECISION

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

The proposal accords with the relevant provisions of the Moray Development Plan 2020 and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2020

ENV9 Cemeteries and proposed extensions

Aberlour Cemetery and Aberlour Cemetery Extension (AB/OS/015)

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of

20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi- functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary

Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.

- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout

and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.

- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m² or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER

i) Special Landscape Areas (SLA's)

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, minimises adverse impacts on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
 - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
 - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
 - iii) For nationally significant infrastructure developments identified in the National Planning Framework,

- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
 - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
 - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

- d) Where a proposal is covered by both a SLA and CAT or ENV policy/designation, the CAT policy or ENV policy/designation will take precedence.

b ii) Landscape Character

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

EP5 OPEN SPACE

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designations in rural groupings to anything other than open space use will be refused. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused. The only exceptions are where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners, excluding housing, or for a site specific opportunity identified within the settlement statement. Where one of these exceptions applies, proposals must:

- Be sited and designed to minimise adverse impacts on the principal function of the space and the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance.
- Demonstrate that there is a clear excess of the type of ENV and the loss of the open space will not negatively impact upon the quality, accessibility and quantity of open space provision and does not fragment green networks (with

reference to the Moray Open Space Strategy Supplementary Guidance, green network mapping and for ENV4 Sports Area in consultation with SportScotland) or replacement open space provision of equivalent function, quality and accessibility is made.

The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused.

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

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

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

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

b) Green Infrastructure and Open Space in New Development

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

Open space provision in new developments must meet the accessibility, quality and quantity standards set out below and meet the requirements of policy PP1 Placemaking, EP2 Biodiversity, other relevant policies and any site specific requirements within the Settlement Statements. Developers must demonstrate

through a Placemaking Statement that they have considered these standards in the design of the open space, this must include submission of a wider analysis plan that details existing open space outwith the site, key community facilities in the area and wider path networks.

i) Accessibility Standard

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

ii) Quality Standard

All new development proposals will be assessed and must achieve a very good quality score of no less than 75%. Quality will be assessed by planning officers at the planning application stage against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected

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

Attractive and Appealing Places

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity)

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.

- Resource efficient, including ensuring open space has a clear function and is not "left over".

Promotes activity, health and well being

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

Safe, Welcoming and contributing to Character and Identity

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

b iii) Quantity Standard

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

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

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

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

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

standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.

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

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available;

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

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

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

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

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of

SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD) water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

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

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.

- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

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

WARD 04_17

22/00410/APP
30th March 2022

**Erect showroom warehouse and workshop building on
Site 17 Elgin Business Park Elgin Moray
for Yorsipp Pension Trustees**

Comments:

- A SITE VISIT has been carried out.
- The application is reported to Committee because it is for a building with a floor area in excess of 2,000 sqm.
- Advertised for neighbour notification purposes – notification not possible because no premises are situated on land to which notification can be sent.
- One representation has been received.

Procedure:

- None

Recommendation Grant planning permission - subject to the following:-

Conditions/Reasons

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

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

2. The retail showroom element associated with the development hereby permitted shall be restricted to the floor area shown on the approved ground floor plan drawing number 1085/PL/05, and remain ancillary to the use of the building as a warehouse. All retailing shall be in accordance with the detail specified in the Supporting Statement submitted with and approved as part of this application.

Reason: To ensure retailing remains associated with the principal use of the building for storage and distribution, to allow the planning authority to give consideration for alternative retail uses for the site, in the interests of the vitality of viability of nearby town and retail centres.

3. All landscaping shall be undertaken in accordance with the approved landscaping scheme (drawing number 1185/PL/03 Rev E) hereby approved, and within the Woodland Screen planting, all planting should be planted with a maximum 2.4 metre spacing for trees with shrubs and smaller planting being spaced at least 0.6 metres apart.

Reason: To ensure the planting is undertaken in accordance with the landscaping scheme, and that the woodland screen planting is of a sufficient density to offer screening from the trunk road to the north.

4. All planting, seeding or turfing, as well as biodiversity measures forming part of the approved landscaping scheme shall be undertaken in the first planting season following first occupation/use or completion of the development hereby approved, whichever is the soonest. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) agrees otherwise in writing.

Reason: To order to ensure that the approved landscaping works and biodiversity measures are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

5. All drainage shall be carried out in accordance with approved Drainage Impact Assessment and associated drawings.

Reason: To ensure suitable provision of surface water drainage, in the interests of the environment and the prevention of flooding.

6. No development shall commence until details (Site Utilities Plan scale 1:500 min) have been submitted to and approved in writing by the Planning Authority.

Reason: In the interest of an acceptable form of development and the submission of details to address details shown incorrectly or missing from the submission.

7. Notwithstanding the details submitted (plan/sections and engineering assessment) for the proposed retaining wall(s) within the development (which are insufficient to confirm (or otherwise) the extent of any structures within the development which may be retaining the public road), no development shall commence until details (plans (scale 1:500 min, including cross sections at 2m intervals) and engineering calculations) have been submitted which demonstrate the extents to which any structures within the development would be retaining the public road.

Thereafter no development shall commence until evidence has been submitted to the Planning Authority which demonstrates that the statutory processes for the approval of the design of any retaining structures have been completed satisfactorily.

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

8. Notwithstanding the details submitted for the customer parking layout (which are not accepted). No development shall commence until details (Plans scale 1:500 min) have been submitted to and approved in writing by the Planning Authority which confirm a separation strip of 1 metre (minimum) between the parking aisle (within the customer parking) and the back of the public cyclepath. Thereafter the development shall be completed in accordance with the approved details.

Reason: In the interest of an acceptable form of development and the submission of details to confirm that there is sufficient clearance between the internal vehicular layout and the public cyclepath to mitigate the risk of potential road safety issues for pedestrians and cyclists from vehicles manoeuvring within the development.

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 the following information:
- duration of works;
 - construction programme;
 - 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
 - details for construction staff parking provision and 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.

10. Prior to the access to the development becoming operational a visibility splay 4.5 metres by 70 metres in both directions shall be provided. Thereafter unless otherwise approved in writing by the Planning Authority the visibility splay shall be maintained clear of any obstruction above 0.26 metres in height, measured from the level of the carriageway.

Reason: To ensure an acceptable standard of development is provided throughout the development site at all times in the interests of road safety.

11. Prior to completion of the development or the development becoming operational (whichever is soonest) parking shall be provided in accordance with the approved plans. Thereafter the parking shall be available at all times, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for the development in the interest of an acceptable development and road safety.

12. Notwithstanding the details submitted for EV charging (which are insufficient and do not show the charging unit locations or specifications) no development shall commence until the following details for the provision of 6no. 22Kw Electric Vehicle (EV) charging spaces have been submitted for approval by the Planning Authority in consultation with the Roads Authority:
- Details showing the type and specifications (22Kw minimum) of the proposed EV charging units(s).

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

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

Reason(s) for Decision

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

Whilst not fully in accordance with the Elgin I7 Barmuckity Business Park designation requirements of the Moray Local Development Plan 2020, where by the layout does not present an active frontage to the A96, the proposed layout is considered to be an acceptable departure from this designation (and subsequently policies DP5 – Business and Industry and DP1 Development Principles) on the basis the arrangement enables development of the site whilst ensuring the pylon running through the site is safeguarded.

The proposed open space provision falls below the 15% required for new industrial sites (13% in this case) as required under policy EP5 – Open Space. However given the safeguarding area required to the pylon corridor, the proposed hedge planting outwith the site, provision of staff garden and subject to revised planting details being provided for the woodland strip which would improve the quality of the open space provision, the proposal is therefore an acceptable departure from policy EP5.

The proposal complies with all other relevant policies of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

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

A Building Warrant will be required for the proposals. Should you require further

assistance please contact the Building Standards Duty Officer between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail buildingstandards@moray.gov.uk

THE TRANSPORTATION MANAGER has commented that:-

Roads Construction Consent is required for any new structure which retains the public road. The following extracts from the Moray (Aberdeenshire) Standards for Roads Construction Consent are highlighted for the applicants benefit.

2.4.Design Requirements

*Construction Consent will be granted only where proposals for the layout and construction of roads, structures, road drainage and lighting meet the Local Roads Authority's standards. Guidance as to how these standards should be achieved is contained in this document: Geometric and Layout Details in Part 2; Construction Details in Part 3. **Since economy of maintenance will be a major consideration in the assessment of applications for Construction Consent, the use of structures to support roads (e.g. retaining walls and bridges) should be avoided wherever possible.** Structures will require the appropriate authorisation including approval in principle of the structure and the method of analysis.*

3.7.Structures Agreements

*Where Construction Consent provides for a road to be supported by a structure, the Local Roads Authority will normally enter into an agreement with the developer, in terms of Section 79(1) (c) of the Roads (Scotland) Act 1984, whereby the bridge will heritably vest in the Local Roads Authority. Other essential structures will also require an agreement to enable these structures and solums to vest in the Local Roads Authority. However, where a bridge or other structure and solum have not been so acquired, the Local Roads Authority will be responsible only for maintaining the road surface. **Retaining walls should only be used in exceptional circumstances at the discretion of the Roads Development Engineer.** Walls constructed to support the road (at the time of road construction) will normally be adopted. Walls constructed to retain adjacent ground and/or forming part of a building will not be adopted.*

Transportation recommended that the proposals be revised to remove any structures which would retain the public road however wish to note that this could not be accommodated within the current site layout without a loss of parking provision.

It is the view of the Roads Authority that this development and the proposal for a retaining wall supporting the public road would not constitute an exceptional circumstance to support the approval of any wall retaining the public road. Whilst development may be supported in planning terms it is considered unlikely that Roads Construction Consent would be approved and therefore the proposals may be at risk of not being implementable.

Parking for the proposed development has been assessed based on the specific end user due to the nature of the operation. Should the end user change the

parking requirements shall be reviewed to determine the appropriate level of provision.

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

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road. Any requirement for a Road Safety Audit will be determined through the Roads Construction Consent process or subsequent to the road construction prior to any road adoption.

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

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

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

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

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

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

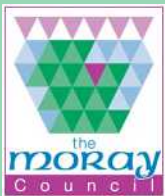
The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

The Transportation Manager must always be contacted before any works commence. This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
1085/PL/01		Location plan
1085/PL/03	E	Landscape plan
1085/PL/05		Proposed ground floor plan
1085/PL/06		Mezzanine floor plan
1085/PL/07		Elevations
1085/PL/08		Section A-A
1085/PL/09	C	Site cross sections X-X
1085/PL/02	C	Site plan

List of Documents to be Approved

- Drainage Impact Assessment & Silverwells Revised Drainage Design Layout
- Supporting Statement



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

22/00410/APP

Site Address:

Site 17 Elgin Business Park

Elgin

Applicant Name:

Yorsipp Pension Trustees

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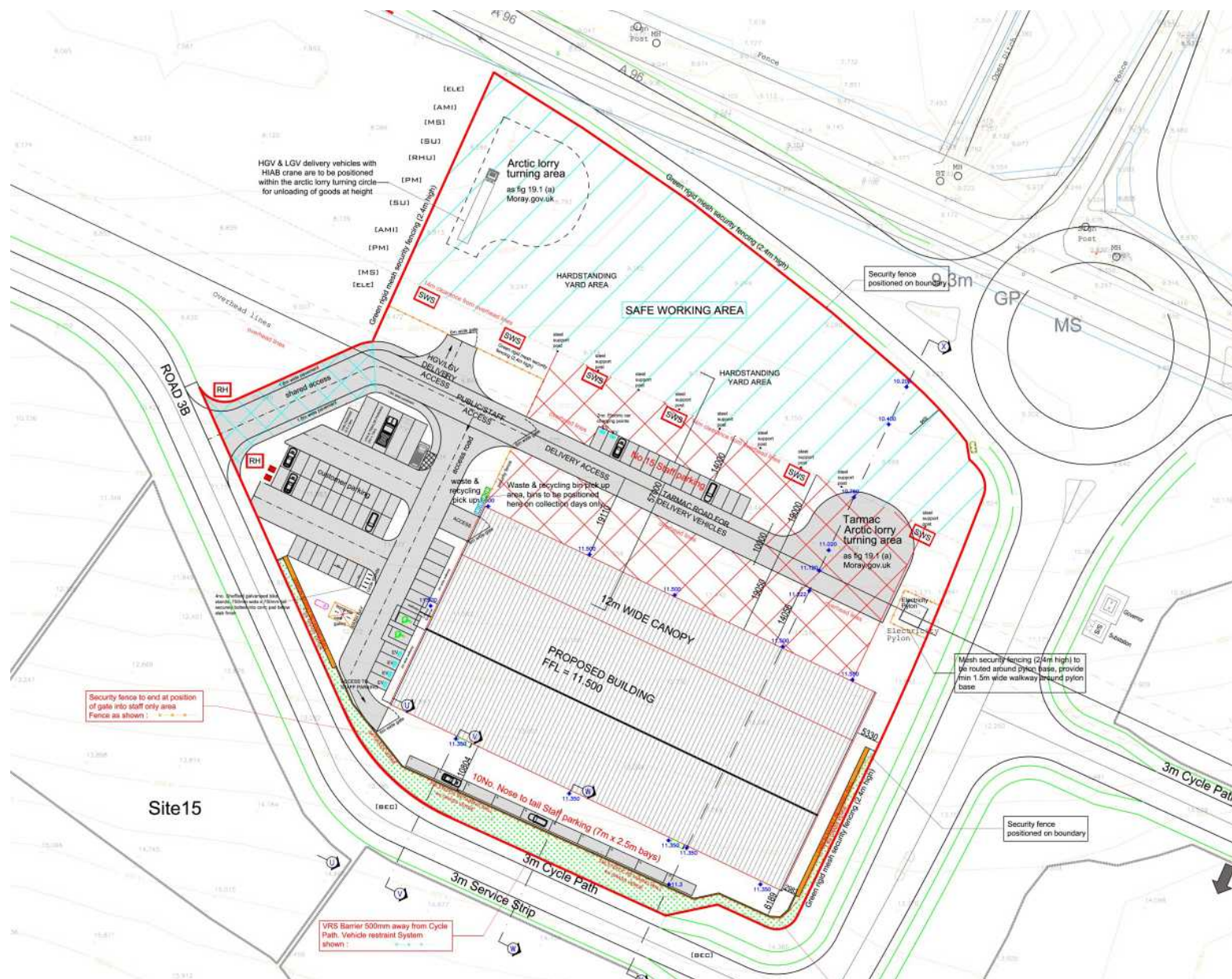
Location Plan



Site Location



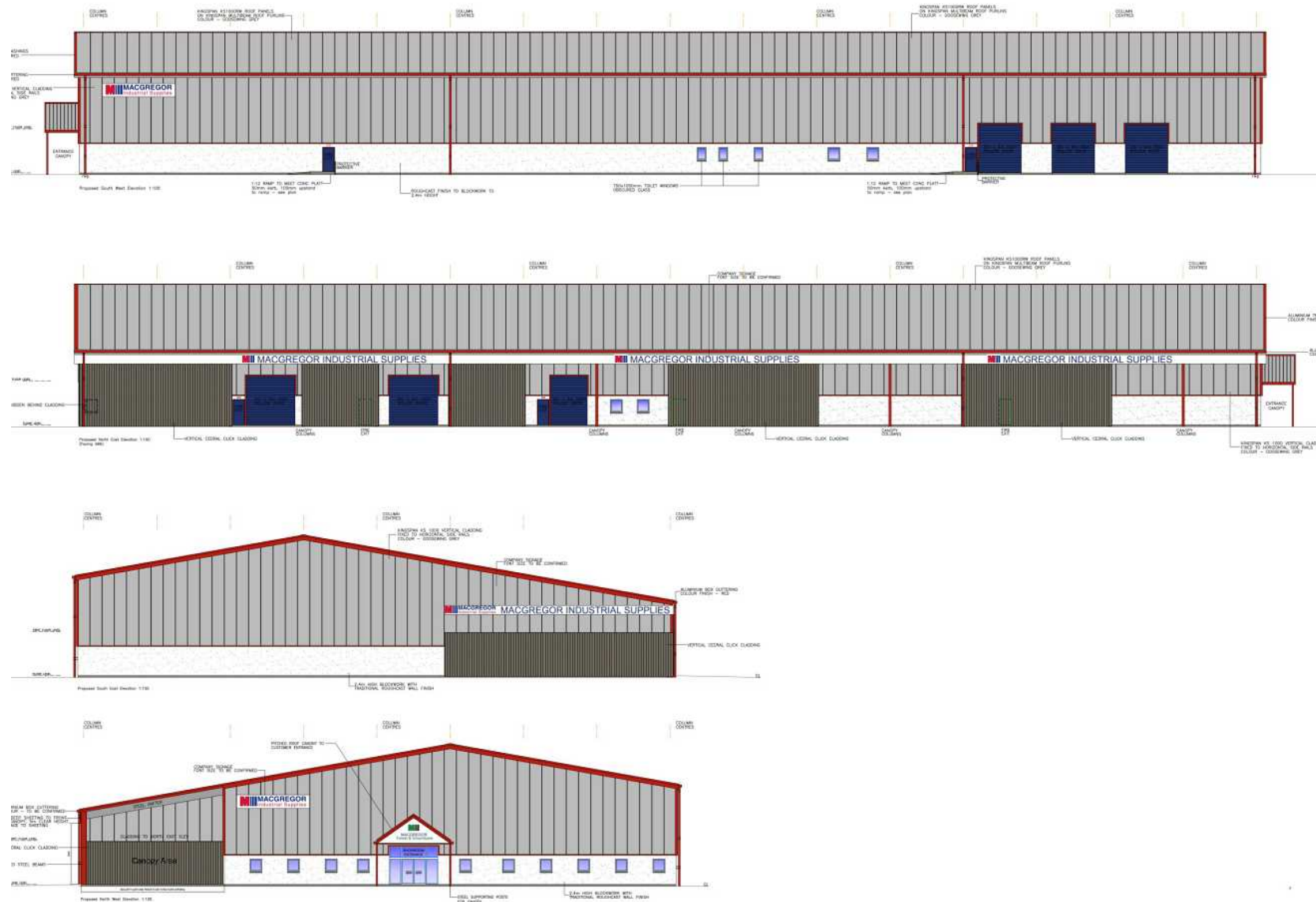
Site plan



Landscape plan



Elevations





Map Description: Arrows point in direction photograph was taken

Scale: 1:1,250 @ A4



Photo 1



Photo 2



Photo 3



Photo 4



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

1. **THE PROPOSAL**

- Erection of showroom, warehouse, workshop and distribution centre (all in one building) with associated yard, storage areas, car parking, access and landscaping.
- The building would have a floor area of 3264 sqm with a covered canopy area of 1152 sqm. Within the building, the showroom would occupy 1536 sqm, workshop 432 sqm and warehouse 1296 sqm. A 1750 sqm mezzanine floor would be used for storage.
- The walls of the building would be finished with roughcast for the lower 2.4 metres, with grey cladding above and to the roof. The overhanging section of canopy would be enclosed with interspersed full height wood effect composite cladding.
- Access would be via a new access to Kirkhill Avenue to the west of the site, which would lead to a customer parking area. Staff parking would be to the south of the site whilst a delivery and hardstanding yard area would be in the north of the site (adjacent to the A96).
- Landscaping is proposed within the customer car park, as well as along the northern, eastern and western boundaries of the site.
- Foul drainage would discharge to public sewers whilst water supply will be from the public network. Surface water drainage would be via a SuDS system.

2. **THE SITE**

- A 1.66 ha plot of undeveloped land within the recently established Elgin Business Park at Barmuckity, to the east of Elgin.
- The site is bounded by the A96 Elgin to Aberdeen trunk road to the north, St Andrew's Road to the east, Kirkhill Avenue to the south and south west, and an adjacent undeveloped plot to the west.
- The business park has a number of sites under development or recently completed, and includes a mix of commercial uses as well as a petrol filling station, drive through coffee shop and a hotel.
- An electricity pylon bisects the site on an east-west axis.
- The site is located within the I7 Barmuckity Business Park designation in the Elgin Settlement Statement of the Moray Local Development Plan 2020.
- The position of the building upon the plot is partially influenced by the need in designation I7 to avoid the functional flood plain in this locality.

3. **HISTORY**

09/00287/SCN – Screening opinion for erection of business park at Barmuckity, Elgin adopted by Moray Council on 20 April 2009 confirming the development will not require Environmental Impact Assessment.

09/00883/FUL – Planning permission for formation of road layout and access for business park at Barmuckity, Elgin granted planning permission on 14 July 2011 by Planning and Regulatory Services Committee following their meeting of 14 June 2011.

4. **POLICY - SEE APPENDIX**

5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification purposes.

6. **CONSULTATIONS**

Environmental Health – No objections.

Contaminated Land – No objections.

Transportation Manager - No objections, conditions recommended requiring detail of extent of proposed retaining wall.

Scottish Water – No objections, sufficient capacity at Badentinan Water Treatment Works for water supply, and Moray West Water Treatment Works for foul drainage.

Strategic Planning and Development – Sufficient supporting information provided with the application to justify location (in respect of retail), with the proposal complying with policy DP5 and DP7. Proposal is an acceptable departure from Elgin I7, policy DP1 and policy EP5 – Open Space with regard to site layout due to constraints from the pylon that passes through the site.

Developer Obligations – No obligations sought.

Moray Flood Risk Management – No objections following revision to drainage arrangement.

Transport Scotland – No objections.

SSEN Transmissions – Proposed arrangement offers sufficient distance/separation between operations proposed as part of this development and the safe operation of the 132Kv overhead transmission that passes through the site.

7. **OBJECTIONS-REPRESENTATIONS**

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

Issue: Object on the basis Use Class 1 (Shops) would not be ancillary to Use Class 6 (Storage and Distribution), but the driver of the need for such storage and distribution, and this is contrary to Barmuckity Business Park Strategic Framework 2016 and Moray Local Development Plan 2020 policy DP7 – Retail/Town Centres.

Comments (PO): The Barmuckity Business Park Strategic Framework has been superseded by the designation text for site I7 – Barmuckity Business Park in the Moray Local Development Plan 2020.

The applicant is an industrial equipment supplies company with branches across the north of Scotland, including an existing site at Pinefield Industrial Estate in Elgin. The use of the building is for use class 6 (storage or distribution) with associated retail. Supporting information provided with the application states that 95% of their trade is to manufacturing, trade and public sector, with the remaining 5% of trade to individuals. 90% of orders are placed by phone/online and delivered. Detailed consideration is given to the suitability of the proposed use under observations below, which considers the proposal acceptable under the terms of policy DP7 and the Barmuckity Business Park designation I7 in which it sits.

8. **OBSERVATIONS**

8.1 Following consideration of the revised draft National Planning Framework 4 which was laid before parliament on 8th November 2022, the draft (yet to be formally adopted) is to be given no weight in the consideration of planning applications. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

8.2 **Principle of Development, Retail Implications (DP5, DP7 and I7)**
The site falls within the I7 Barmuckity Business Park designation of the Elgin Settlement Statement of the MLDP. Policy DP5 requires all development to comply with relevant sites designations, and on industrial estate designations notes that such areas are primarily reserved for uses within use classes 4 (business), 5 (general industrial) and 6 (storage or distribution). The site development requirements of I7 set out criteria for development on the designation, notably requiring all development to comply with the Barmuckity

Business Park Strategic Framework as detailed in the MLDP. With regard to suitable uses, the designation notes the primary function of Barmuckity Business Park is for uses within use classes 4, 5 and 6.

- 8.2.1 The Strategic Framework sets out the expected land use and landscape layout for the development of the business park, and divides it into 6 areas. The site subject to this application falls into “Area 2” which specifies a variety of land uses including those for visiting members of the public, recognising the prominence of the area due to its frontage to the A96.
- 8.2.2 The proposed use of the building is use class 6 (with ancillary retailing under use class 1) falls within uses deemed acceptable for the location within this area of the business park designation and Strategic Framework. Consideration will be given to the various design and siting criteria in the following Design, Layout and Siting section below.
- 8.2.3 Policy DP7 – Retail/Town Centres (part d) makes reference to the requirements of policy DP5 – Business and Industry with respect to ancillary retailing. Policy DP5 presumes against retail development on business or industrial areas unless it is ancillary to the principal use (e.g. wholesale). In such instances ancillary is defined as being directly linked to the principal use of the unit and comprising no more than 10% of the floor area up to a total of 1000 sqm. Anything in excess of this must be assessed via a sequential approach taken in accordance with town centre first principles. This should identify no other suitable sites and the proposal should be in accordance with all other relevant policies and site requirements.
- 8.2.4 The proposed retail/showroom element exceeds 10% of the floor area of the building and is in excess of 1000 sqm, therefore a sequential approach must be taken. In relation to this matter, the applicant has submitted a supporting statement with reference to the requirements of policies DP5 and DP7.
- 8.2.5 This supporting statement notes that the applicant is an industrial supplies company with outlets across the north of Scotland, including one in Elgin at Pinefield Industrial Estate. The applicant would relocate that outlet to this proposal. 95% of trade from their Elgin branch is to manufacturing, trade and public sector, with the remaining 5% to individual members of the public. 90% of all orders are placed by phone/online and delivered. The delivery catchment takes in a large proportion of North East Scotland between Forres to Peterhead and southwards to Speyside. The nature of the retail element is such that goods are on display in a “supermarket” type trade shop where customers can view stock prior to purchase, and items retailed tend to be higher end equipment/professional equipment rather than lower end/DIY models, as well as large bulky industrial supplies. A large volume and variety of stock is held on site to enable fast delivery to customers, hence why a relatively large warehouse and trade area is proposed.
- 8.2.6 The supporting statement notes that alternative sites to enable expansion of the Elgin branch were investigated elsewhere in Elgin (including Ashgrove Road and Chanonry as well as neighbouring land to enable expansion of their existing site at Pinefield), however attempts at securing these were either unsuccessful or the land was considered unsuitable for the applicant’s needs.

The existing site in Pinefield is at full capacity and there is need to provide sufficient space to expand and allow those customers that do collect purchases (often in larger commercial vehicles) to park and manoeuvre safely.

8.2.7 Taking account of the policy requirements of policies DP7 and DP5, the supporting information accompanying the application is considered to demonstrate that the proposed unit would be an acceptable development in the industrial estate designation. The nature of retail involved is related to the main function of the warehouse premises and is not typical of a town centre. It is also worth noting that the applicant's current business operates out of a designated industrial estate (which would subsequently free up their current premises for development/other uses, the applicant stating it will make several 140 – 190 sqm units for let to small and medium sized enterprises).

8.2.8 In light of the foregoing evaluation the proposal is considered to be suitable in principle, complying with policies DP5 and DP7.

8.3 **Design, Layout and Siting (DP1, I7)**

At a high level, policy DP1 – Development Principles requires all development to be designed and sited at a suitable level and integrated into the surrounding landscape. With regard to the I7 designation in which the site sits, there are a number of design and siting criteria within the designation text and Barmuckity Business Park Strategic Framework to ensure a consistent layout and landscape framework for all development within the I7 designation.

8.3.1 The I7 designation and the Framework both set out that the area subject to this application must have a strong frontage to the A96, with parking provision contained to the rear of buildings and ensure landscaping is provided to frame views of the site from the main road. It also notes that sufficient safeguarding must be provided for overhead power lines that run through the area.

8.3.2 Scottish and Southern Electricity Networks Transmission were consulted on this application, and have been involved in discussions with the applicant in formulating the proposal. There is a recognised requirement for sufficient safeguarding to be put in place to ensure the safe operation of a transmission line that runs through the site. Due to the necessary safeguarding area for this, the area left for development of a building on the corner of the site adjacent to the roundabout on the A96 leaves little space for a building to be erected. As a result, the building is positioned to the south of the power line within, and the yard and storage area for the proposal is located in the north of the site.

8.3.3 In order to mitigate the impact of the yard being in a relatively prominent position, the applicant has proposed woodland planting along the edge of the A96 to allow screening of the site from the road. Whilst this is contrary to the requirements of the Framework, the position of the power line makes this arrangement the only feasible arrangement of the plot, where tree screening must avoid powerlines. On the basis sufficient landscaping/woodland is proposed for screening (with minimum density specified in recommended landscaping condition), the proposal can be considered to be an acceptable departure from the designation requirements (and subsequently policy DP5).

- 8.3.4 With regard to the design of the building itself, the building is typical of an industrial/commercial building found in an industrial estate. The design statement notes that in order to ensure it integrates within the landscape, cut and fill will be used to ensure the building and yard will sit at a relatively lower level within the site. Along with landscaping and use of a variety of materials on the north eastern elevation including timber effect cladding on the north eastern elevation, the building will have a relatively positive frontage when viewed from the A96. Within the site and in addition to that used on the boundary of the site, landscaping has been used to break up and define areas of parking for customers as required in the Framework. Staff parking is contained within the site with the parking to the north of the building under the pylon area and the parking to the south sitting at a lower level than the adjacent public road. Whilst no landscaping has been proposed due to the constraints of the pylon and the adjacent retaining wall, this is considered to be an acceptable departure from this requirement of the Framework.
- 8.3.5 Overall the proposed design, siting and layout of the building along with landscaping is considered suitable for this prominent site within the relatively new business park. Whilst not fully in accordance with the I7 designation requirements, the proposed layout is considered to be an acceptable departure from this designation (and subsequently policy DP5) on the basis the arrangement enables development of the site whilst ensuring the pylon running through the site is safeguarded. The proposal complies with the I7 designation and requirements of policy DP1 in all other respects.
- 8.4 **Open Space (EP5) and Biodiversity (EP2)**
Open space including a staff garden/seating area has been provided within the site, though this is at a rate of 13% of the site area rather than 15% as required under policy EP5. In this case given the safeguarding area required to the pylon corridor, provision of staff garden and proposed and adjacent structural landscaping which would improve the quality of the open space provision, the slightly lower figure of 13% is considered an acceptable departure from policy EP5.
- 8.4.1 Policy EP2 requires development proposals to, where possible, retain, protect and enhance all biological interest and provide for their appropriate management. This also states that proposals for 1000 sqm or more of commercial floorspace must create new or where appropriate enhance natural habitats of ecological value. In this case the applicant has proposed bird boxes, and insect and bee bricks to be used to enhance biodiversity in the landscaped/woodland areas. These biodiversity measures satisfy the requirements of policy EP2.
- 8.5 **Drainage and Sewerage (EP12, EP13)**
Policy EP12 Management and Enhancement of the Water Environment sets out detailed criteria to ensure proposals meet siting, design and servicing requirements including provision of SuDS. This includes requirements for surface water from new development to be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. It is noted that the building is to be located at a higher position than the active flood plain to the north west.

- 8.5.1 A Drainage Impact Assessment has been submitted with the application which details the proposed surface drainage arrangements for the proposed development. Plans show permeable surfacing, swales and filter trenches would be used to treat surface water.
- 8.5.2 Moray Flood Risk Management have assessed this information, are content with its findings and have raised no objections to the proposal. The proposal is considered to comply with the aforementioned policies in respect of surface water drainage.
- 8.5.3 A connection to the foul drainage network is proposed for foul drainage. Scottish Water have not objected to this, noting sufficient capacity in the local network and the Moray West Water Treatment Works. The proposal therefore complies with policy EP13 Foul Drainage.
- 8.6 **Access and Parking (PP3)**
A new access would be formed from the public road to the south west of the site (Kirkhill Avenue). Suitable access arrangements can therefore be provided for vehicles, as well as pedestrians and cyclists, noting there is access to the bus stop to the north west of the site of the A96. Cycle parking has been proposed on site along with suitable parking for vehicles (including EV charging provision). The Transportation Manager has raised no objections to this proposal, subject to conditions in respect of parking and access provision, as well as a requirement for further structural detail of the retaining wall to the south of the site. Subject to these conditions, the proposal is considered to comply with the requirements of policy PP3.
- 8.7 **Developer Obligations (PP3)**
Given the floor area exceeds 1000 sqm, the development is potentially subject to developer obligations under policy PP3 and the associated Developer Obligations Supplementary Guidance. In this case the proposal is not liable to pay any obligations.
- 8.8 **Environmental Impact Assessment – Screening Opinion**
Upon valid submission this application was screened by Moray Council (as competent authority) under regulation 11 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 to determine whether or not Environmental Impact Assessment (EIA) was required.
- 8.8.1 On 4 April 2022 Moray Council adopted a screening opinion stating EIA was not required for this proposal.

Recommendation

Approve.

REASON(S) FOR DECISION

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

Whilst not fully in accordance with the Elgin I7 Barmuckity Business Park designation requirements of the Moray Local Development Plan 2020, where by the layout does not present an active frontage to the A96, the proposed layout is considered to be an acceptable departure from this designation (and

subsequently policies DP5 – Business and Industry and DP1 Development Principles) on the basis the arrangement enables development of the site whilst ensuring the pylon running through the site is safeguarded.

The proposed open space provision falls below the 15% required for new industrial sites (13% in this case) as required under policy EP5 – Open Space. However given the safeguarding area required to the pylon corridor, the proposed hedge planting outwith the site, provision of staff garden and subject to revised planting details being provided for the woodland strip which would improve the quality of the open space provision, the proposal is therefore an acceptable departure from policy EP5.

The proposal complies with all other relevant policies of the development plan and there are no material considerations that indicate otherwise.

**Author/Contact
Officer:**

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Senior Planning Officer

Ext: 01343 563274

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

APPENDIX

POLICY

Moray Local Development Plan 2020

I7 Barmuckity Business Park Industrial Estate

- Proposals must comply with the Barmuckity Business Park Strategic Framework shown on page 153.
- Barmuckity's primary function is for Class 4 Business, Class 5 General Industrial and Class 6 Storage or Distribution. A minimum of 14.69 ha* is reserved for these uses.
- A greater mix of uses is supported across 7.41 ha* of the site; these areas are adjacent to the A96 and are shown within the Barmuckity Business Park Strategic Framework as areas 2, 3 and 6. Within these areas Use Class 4 Business, Class 5 General Industrial, Class 6 Storage or Distribution, Class 7 Hotel and Hostels, and Class 11 Assembly and Leisure are supported subject to other policies including policy DP7. Retailing may be acceptable where retailing is ancillary to the main use.
- An access strategy is required to be agreed with Transport Scotland for Phase 2 (west) of the development.
- Positive frontages onto the A96 must be provided and the quality of design must reflect the key gateway to Elgin.
- Vehicular connection over the railway line to be retained/provided to Moss of Barmuckity to the south.
- A vehicular connection to the south to be safeguarded to enable future provision of access to Elgin South development.
- Strategic and boundary landscaping must be provided in compliance with the approved Landscape Design for Elgin Business Park - Phase 1 submitted to the Council on 30th May 2018. Phase 2 landscaping to be in compliance with the Strategic Framework.
- Individual proposals on plots within the wider site must provide a landscape and maintenance plan. Landscaping must complement the strategic and boundary landscaping in the relevant area. Landscaping must be used to define plots.
- Level 2 Flood Risk Assessment (FRA) required. No development within the functional floodplain. No development within 6m of the watercourses.
- Areas at risk from flooding must be made a landscape feature to provide biodiversity and a high amenity setting for development.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- A Water Framework Directive waterbody specific objective will require to be addressed.
- Footpath and cycle connections within and to outwith the site required.

(*This is a net area which excludes landscaping, areas at risk of flooding etc.)

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
 - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
 - iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
 - iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
 - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
 - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
 - vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
 - viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
 - ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear –and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road

widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP5 BUSINESS & INDUSTRY

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

b) Business Parks

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

c) Industrial Estates

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

d) Existing Business Areas

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

e) Other Uses

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (sui generis), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

g) Rural Businesses and Farm Diversification

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

h) Inward Investment Sites

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must

safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m² or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP5 OPEN SPACE

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designations in rural groupings to anything other than open space use will be refused. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused. The only exceptions are where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners, excluding housing, or for a site specific opportunity identified within the settlement statement. Where one of these exceptions applies, proposals must:

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

The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused.

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

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

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

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

b) Green Infrastructure and Open Space in New Development

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

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

i) Accessibility Standard

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

ii) **Quality Standard**

All new development proposals will be assessed and must achieve a very good quality score of no less than 75%. Quality will be assessed by planning officers at the planning application stage against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected

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

Attractive and Appealing Places

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity)

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/bue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

Promotes activity, health and well being

- Provides multifunctional open space for a range of outdoor physical activities reflecting user needs and location.
- Provides diverse play, sport, and recreational facilities for a range of ages and user groups.
- Providing places for social interaction, including supporting furniture to provide seating and resting opportunities.

- Appropriate high quality facilities meeting needs and reflecting the site location and site.
- Carefully sited facilities for a range of ages with consideration to be given to existing facilities, overlooking, and ease of access for users.
- Open space is flexible to accommodate changing needs.

Safe, Welcoming and contributing to Character and Identity

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

b iii) Quantity Standard

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

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

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future

flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

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

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

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available→→;

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

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

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

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

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

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

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

c) **Water Environment**

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD)– water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

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

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

EP13 FOUL DRAINAGE

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population must connect to the public sewerage system unless connection is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has

confirmed investment to address this constraint has been allocated within its investment Programme and the following requirements have been met;

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

WARD 02_17

22/00563/APP
12 April 2022

Erection of 3 Wind Turbines (at max height 149.9 metre to blade tip), control building and substation and formation of access tracks (including turning heads), hardstanding, temporary construction compound and associated works and infrastructure at Lurg Hill Deskford Moray for Vento Ludens Ltd

Comments:

- The appointed officer considers the matter raises matters of wider community interest and/or planning significance by virtue of the scale or height of the turbines, which exceed 40 metre (to blade tip).
- Advertised as a departure from the development plan, under Schedule 3 of the Development Management Regulations 2013 and for neighbour notification purposes.
- 2 letters of objection have been received.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:

Conditions/Reasons

1. The development to which this permission relates must be begun not later than the expiration of 5 years beginning with the date on which the permission is granted.

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

2. 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.

3. 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 12 months, or is no longer required, the turbine(s) in question shall be deemed to have ceased to be required. Under such circumstances, the 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 6 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.

4. No development (excluding preliminary ground investigation which shall be permitted) shall commence until:
 - 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, NatureScot 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.

5. 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 4);
 - 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 re-instatement and restoration of the site.

6. No development shall commence (excluding preliminary ground investigation which shall be permitted) until the following information has been submitted to and approved by the Council, as planning authority in consultation with SEPA, NatureScot and other agencies where appropriate:
- a) details 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 3 and the blade tip height shall not exceed 149.9 metres above ground level);
 - b) the external colour and/of 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, external material finishes and colour of any external wind turbine transformer housing;
 - 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 surface 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 out with a 50 metre 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 35% 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 addressing all drainage from the site to include the location(s), 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;
 - i) details of arrangements to monitor private water supplies during all stages of the development, and in the event of any adverse effects on water quality or quantity being identified, the arrangements and procedures to undertake restorative and remedial works to maintain any supply. This shall include 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. This shall include notification to Scottish Water at potectdwsources@scottishwater.co.uk, 3 months in advance of any works

- commencing on site to make its operational teams aware (see consultation response date 30 November 2022); and
- j) details 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.

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.

7. No development shall commence until a detailed Site-specific Construction Environmental Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with SEPA, NatureScot and other agencies as appropriate. The Plan shall be closely based on supporting document by Atmos Consulting, dated March 2022, document reference 57120, titled "Lurg Hill Wind Farm - Outline Construction Environmental Management Plan", address all stages of the development (construction, operation and decommissioning), and identify all works and elements potentially capable of giving rise to pollution or causing environmental harm, and all required/proposed measures to mitigate the identified impacts. The Plan shall include but not be limited to the following:
- a) construction method statement covering the provision of all turbines and site infrastructure;
 - b) pollution prevention and control measures – to include arrangements for storage and management of oil, fuel and concrete on the site;
 - c) 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;
 - d) 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 6 h);
 - e) 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. Specifically, the plan must show peat probing results and in the vicinity of Turbine 1 and include results of a detailed survey on a 10 metre by 10 metre grid basis around the centre of the proposed turbine base and track leading to it.

- f) emergency procedures to include the locations and use of spill kits, etc. and provisions for staff training;
- g) 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.;
- h) 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;
- i) 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);
- j) details of construction compound(s) 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.); these details shall be agreed with the Planning Authority in advance in terms of siting and form of construction;
- k) dust management plan;
- l) measures to prevent loose or deleterious material being deposited on the local road network including provision for on-site wheel cleaning, etc.;
- m) 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;
- n) 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 those species and habitats as identified within the Environmental Appraisal (Chapter 6 Ecology and Chapter 7 Ornithology, mitigation sections for construction and operational phases refers); and

- o) 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.

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 NatureScot. 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 Appraisal and other supporting documents including the Outline 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.

- 8. 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 and measures to be put in place to prevent material being deposited on the public road.

- 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 7.3 metres and have a maximum gradient of 1:20 measured for the first 25 from the edge of the public carriageway. 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 300 millimetres minimum diameter of pipe. The pipe shall be laid to a self-cleansing gradient. Technical approval required for access to demonstrate proposals will prevent water and loose materials from being discharged onto the public road.
- 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 – 100 metres 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 150 metres) to be located approximately 50 – 100 metres to the east of the proposed access onto the C4L. The third passing place to be located approximately 130-150 metres east of the existing passing place at Greenhill (to achieve a maximum spacing of not more than 150 metres between passing places).
- f) Details of the vehicle gross weights and maximum axle loads are required.

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.

9. 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 (8 a,b,c,d,e,f) 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 4.5 metres by 160 metres 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.

- 10. The proposed route for any abnormal loads on the trunk road network must be approved by Transport Scotland, as 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. Full details of proposed works shall be developed in consultation with the Trunk Road Operating Company and Transport Scotland Area Manager at the earliest opportunity through a Minute of Agreement (<https://www.transport.gov.scot/our-approach/industry-guidance/work-on-the-scottish-trunk-road-network>) and issued for their approval prior to the commencement of construction operations.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development ; and to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

- 11. 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 Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority, before delivery commences.

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

- 12. The developer shall submit proposals for an abnormal loads delivery trial-run to be undertaken with the involvement of Police Scotland and prior to the commencement of abnormal loads deliveries. Trial-run proposals shall be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

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

13. No development shall commence until a Construction Traffic Management Plan (CTMP) has been prepared and approved in writing by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road , to ensure the safety of pedestrians and cyclists using the trunk road and adjacent facilities, and to be consistent with current guidance and best practice.

14. All vehicles transporting construction material to and from the proposed development should be sheeted.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

15. Prior to the commencement of construction, vehicle wheel cleansing facilities shall be installed and brought into operation, the design and siting of which shall be subject to the prior approval of the planning authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

16. Prior to any decommissioning of the development, a Decommissioning Plan shall be prepared and approved in writing by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

17. No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbine upon air safety has been submitted to and approved in writing by the Local Planning Authority in consultation with the Ministry of Defence (MOD).

The Air Traffic Control Radar Mitigation Scheme is a scheme designed to mitigate the impact of the development upon the operation of the Primary Surveillance Radar at RAF Lossiemouth (and the air traffic control operations of the 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 maintain aviation safety.

18. Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of the Moray Council in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

- a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason: To maintain aviation safety.

19. The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:
- a) the date of the commencement of the erection of wind turbine generators;
 - b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
 - c) the date any wind turbine generators are brought into use; and
 - d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: To maintain aviation safety.

20. Prior to the commencement of the development or any tree felling on the site, a Compensatory Planting Plan (CP) detailing the provision of 9.3ha of tree planting shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Forestry. The CP must provide full details of the proposed planting, including its maintenance over the entire life-span of the

development and include the following information:

- a) details of the person(s) that survey, describe, assess, specify and deliver both the felling proposals and on-site and off-site CP proposals must have the relevant qualifications, technical abilities and have the necessary experience e.g. a chartered forester;
- b) the location of the on-site and off-site CP covering an area of 9.3ha should be fully detailed, described and supported with good quality maps. If peat depth is a relevant consideration, a full assessment should be undertaken using recognised survey techniques and details of this provided in the application;
- c) details of any statutory consents required to carry out the proposed CP;
- d) a full silvicultural proposal for compensatory planting, supported with maps should be provided. This should include: ground preparation, drainage, planting technique, stocking density, species, maintenance and a protection plan for the life of the development;
- e) details of the timing of the CP. All CP should be completed within five years after the woodland is removed or within two years of the development being completed. A maintenance plan with appropriate timescales should be provided for the life of the development. Subsequent establishment should be completed within the period for which enforcement action can be taken;
- f) details for monitoring of CP conditions or arrangements: An independent, qualified and technically competent professional(s) (e.g. chartered forester) with the required experience should inspect the CP scheme at regular intervals (year 1, 5 and 10) to ensure that the trees are planted correctly, maintained to the required standard and ultimately established into woodland. The woodland must be maintained thereafter. This professional individual should report to the planning authority, to allow the CP condition to be managed and ultimately discharged; and
- g) restocking timescales should be completed within two years after the woodland is removed or within two years of the associated section of the development being completed. This should only be extended if the Hylobius Decision Support System clearly shows that a delay would be a benefit, restocking should not be extended beyond 5 years in any instance.

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

21. The permission hereby granted shall not be exercised in addition to, or in conjunction with the permission approved under formal decision notice 22/00339/APP, dated 5 July 2022 (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).

Reason: In order to avoid any ambiguity regarding the terms of this consent and to ensure that mitigation measures as set out within the EA (omitting turbines 4 and 5) are met.

22. The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty and amplitude modulation (AM) 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 immissions 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 or is likely to contain an amplitude modulation (AM) component;
 - c) the assessment of the rating level of noise immissions 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/or amplitude modulation (AM) 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 immissions. 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 immissions 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 immissions 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. Unless otherwise agreed in writing by the Planning Authority, the assessment shall be accompanied by 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 with the exception of audio data which shall be supplied in the format in which it is recorded. 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 immissions; and
- f) where a further assessment of the rating level of noise immissions 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 $L_{A90,10 \text{ minute}}$ 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 metre height (m/s) within the site averaged over 10-minute periods								
	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 metre height (m/s) within the site averaged over 10-minute periods								
	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 Windyhill	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Netherton of Windyhill	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Backies	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Upper Skeith	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Mid Skeith	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Little Skeith	40.0	40.0	40.0	40.0	41.0	44.1	46.2	46.7	45.1
Langley	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8
Croylet	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8

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

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

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.

23. 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 immisions from the wind turbines within the first year of the operation of the turbines. The measurement procedures, which may include filtering data according to wind direction, shall be approved by the Planning Authority prior to commencement of monitoring and shall be implemented as approved. The results

of the measurement exercise shall be forwarded to the Planning Authority as soon as practicable after the completion of the monitoring exercise.

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.

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 0700 - 1900 hours, Monday to Friday and 0700 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

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

25. There shall be no blasting at the development.

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

26. A shadow flicker impact control unit shall be installed prior to operation to turbine 1 at the development, in accordance with the details submitted in the supporting email by Atmos consulting, dated 9th August 2022 and titled "RE:22/00563/APP Lurg Hill - Shadow flicker assessment - Env Appraisal- Section 13".

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

27. 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.

28. 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.

29. a) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown in Figure 3.2 Site Layout. The location of

the wind turbines, compounds, areas of hardstanding and tracks may be varied (micro-sited) within the site subject to the following, unless otherwise approved in advance in writing by the Planning Authority:

- i. no wind turbine, building, mast, tracks, hardstanding or other ancillary infrastructure shall be moved more than 50 metres from the position shown on Figure 3.2 Site Layout;
 - ii. all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).
- b) No later than two months after the Date of Final Commissioning, an updated site plan shall be submitted to the Planning Authority showing the final position of all wind turbines, anemometry masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan must also specify areas where micro-siting has taken place and, for each instance, be accompanied by the Environmental Clerk of Works or Planning Authority's approval, as applicable.

Reason: To ensure that micro-siting decisions take account of environmental impacts and local ground conditions.

REASON(S) FOR DECISION

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

This proposal represents an acceptable renewable energy development proposal for Moray. The scheme accords with local and national planning policy regarding the expansion of renewable energy, including its contribution to renewable energy targets.

The proposed development would introduce changes to the height and blade dimensions of the turbines and a reduction in turbine numbers from five to three when compared with the consented development at this site. While significant adverse effects on landscape character and views would be associated with this proposal, these effects require to be considered within the context of the existing consent of a wind farm on this site, which carries significant weight as a material consideration.

The omission of the two northern-most turbines would provide mitigation of visual effects in close views from residential properties and from the Cullen House Inventory listed designed landscape (should existing forestry be felled on Clune Hill). The changes made to the size of the turbines (a difference of just under 20m) would not be readily appreciable in the majority of views from the wider area. With this mitigation and when compared to the consented scheme, for landscape and visual effects, the proposal is considered to be an acceptable departure from Policies DP1 and DP9, subject to Turbines 4 and 5 of 17/01198/EIA and 22/00339/APP not being constructed alongside the proposal.

From detailed assessment and subject to conditions to avoid or mitigate any significant impacts, the proposal satisfies all other policy requirements as set out within the Moray Local Development Plan 2020, relating to the natural and built environment, residential amenity, cultural heritage, woodland removal, the water environment, transport, noise, aviation, telecommunications, socio-economic, recreational and tourism interests.

List of Informatives:

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to the commencement of deliveries or any construction work, a Section 96 Agreement under the Roads (Scotland) Act 1984 will be required to be approved between the developer and the roads Authority. This is to ensure that the costs to repair any damage to the public roads as a result of the construction work traffic are met by the applicant.

The scope of the S96 Wear and Tear Agreement must include a condition survey of the network including the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition the wear and tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the Roads Authority. On the basis of the current indicative access routes the following initial routes are identified as 'unsuitable' for use by construction traffic.

C7L Craibstone - Fordyce Road
U57al Oathillock Road
U57I Main Road/Kirkton Road
C62L Clune – Ardiecow

A programme of monitoring for all routes identified within the CTMP during construction shall be included.

Proposals for the management of abnormal indivisible loads to be approved, must also include measures to ensure the safety of non-vehicular road users.

It is not acceptable to over run central refuge / splitter islands, they are not constructed to take vehicle loadings. Proposals submitted must show how this will be managed during deliveries. It is also not appropriate to remove signing for the duration of the abnormal loads therefore confirmation of how signs will be managed during the delivery phase needs to be agreed.

Transport Scotland must be consulted with respect to all deliveries proposed via the Trunk Road. The neighbouring Local Authorities, through which the delivery route may pass, Highland/Aberdeenshire/Aberdeen City, must also be consulted.

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing Transport.Develop@moray.gov.uk and reference to the following pages on the Council web site
Checklist: <http://www.moray.gov.uk/downloads/file68812.pdf>
RCC: http://www.moray.gov.uk/moray_standard/page_65638.html
Specification <http://www.moray.gov.uk/downloads/file68813.pdf>

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing roadspermits@moray.gov.uk and reference to the following page on the Council web site: Road Opening: http://www.moray.gov.uk/moray_standard/page_79860.html

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

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

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

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

The applicants shall meet all costs of removal and re-erection of road signage, which are required as a result of the delivery of the abnormal loads.

The applicants shall meet all costs of diverting any footpath or cycleway during the construction period, including signage.

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

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

TRANSPORT SCOTLAND, has commented that:

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice

Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

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

The control building will require a building warrant.

During the decommissioning phase of the development proposal or when the wind turbines are deemed to have ceased to be required (conditions 2 and 3 of this consent refer) the wind turbines and any ancillary equipment, fixtures and fittings should be recycled and/or re-used when they reach end-of-use as far as is practicable. Details of methods and technologies to be used to recycle and/or re-use these materials should be submitted as part of any prospective submission to satisfy conditions 3 and 4 of this planning consent.

SCOTTISH WATER, has commented that:

See attached consultation response dated 30 November 2022.

The DEFENCE INFRASTRUCTURE ORGANISATION, has commented that:

See attached consultation response dated 9 May 2022.

The ENVIRONMENTAL HEALTH MANAGER, has commented that:

Should the control building that forms part of this development be connected to a private water supply, and if the water is used for human consumption (which includes washing and other sanitary purposes), the supply is likely to come within the scope of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. These regulations require that someone who is adding a new part to a private supply system (such as a new water source or connection), must tell the Council as enforcing authority before they do so. It is an offence to use a new or modified supply covered by these regulations unless the supply has been risk assessed and approved by the enforcing authority. You are recommended to contact the Council's Environmental Health section (tel 0300 1234561, email environmentalhealth@moray.gov.uk) at least eight weeks before the supply is intended to be used to arrange for a risk assessment to be undertaken.

Guidance Notes for Noise Condition 22.

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes, any tonal penalty applied in accordance with Guidance Note 3, and any Amplitude Modulation (AM) penalty applied in Guidance Note 6. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and

Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- a) Values of the LA90, 10 minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable amplitude modulation and/or tonal penalties to be applied in accordance with these Guidance Notes.
- b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- c) The LA90 10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine, and at any on site meteorological mast, if available, together with the arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be ‘standardised’ to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the

manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

- e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.
- f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

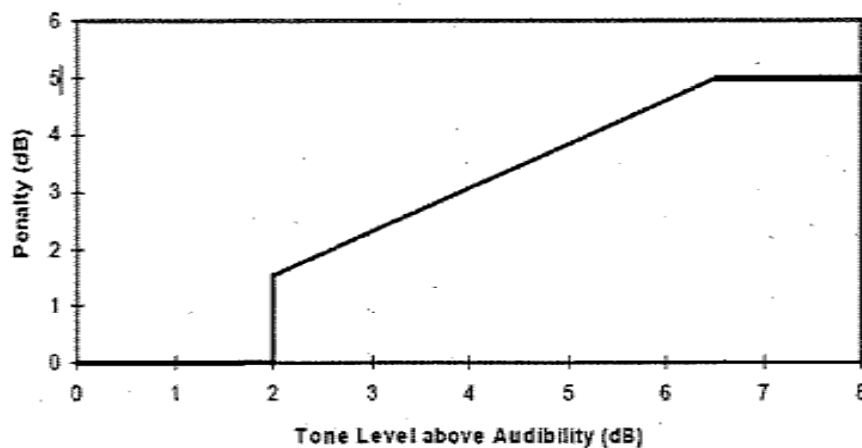
- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2.
- b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (c) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1.
- c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90, 10 minute noise measurements and corresponding values of the 10 minute standardised 10 metre height wind speed, as derived from the site measured wind speed source(s) agreed in writing with the Planning Authority in accordance with Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- a) Where, in accordance with the approved assessment protocol under paragraph (c) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- b) For each 10 minute interval for which LA90, 10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure,

as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 to 109 of ETSU-R-97.
- d) The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- e) The tonal penalty for each wind speed bin is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (c) of the noise condition.
- b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (d) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

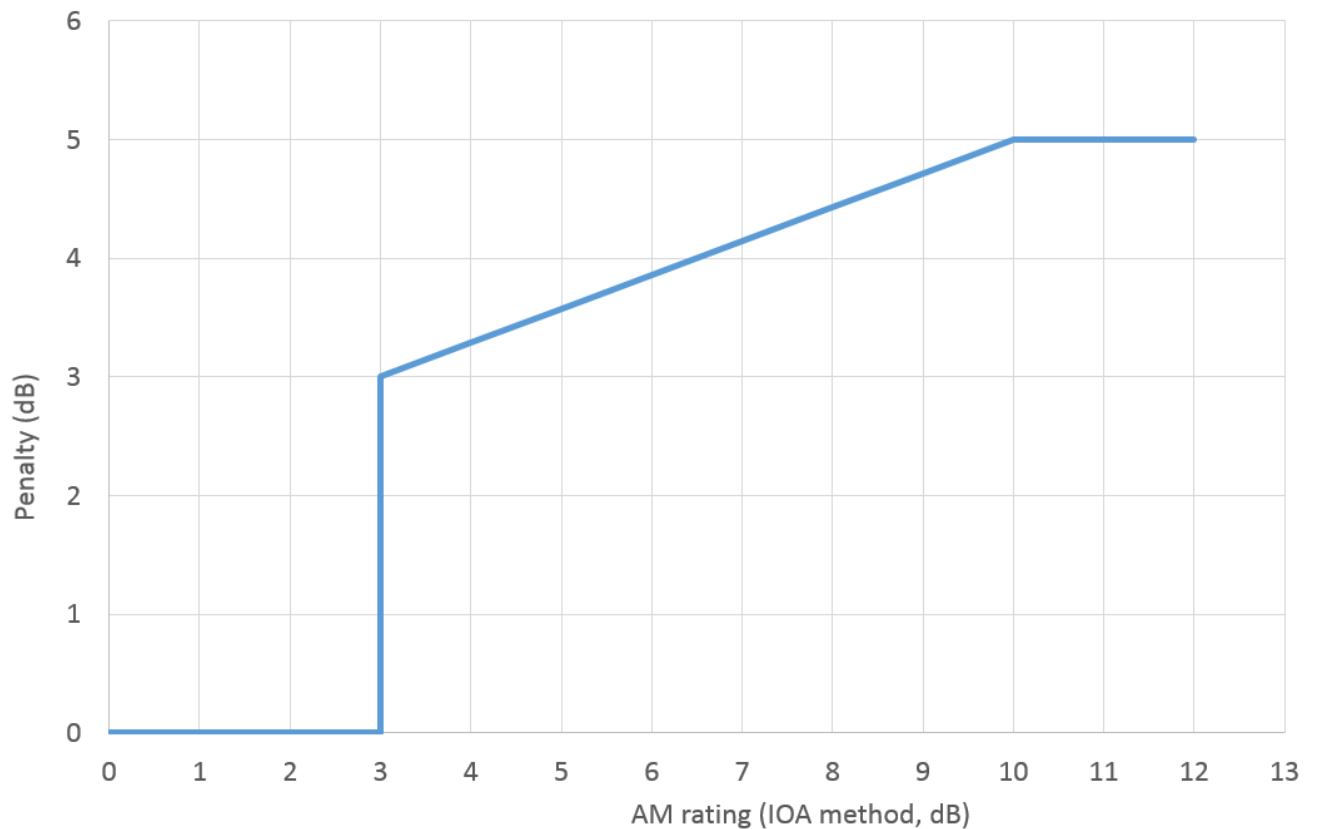
- d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
- e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (b) and the approved protocol under paragraph (c) of the noise condition.
- f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

- g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- h) If the rating level after adjustment for background noise contribution and adjustment for amplitude modulation and/or tonal penalties (if required in accordance with Guidance Note 3 and 5) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then the development fails to comply with the conditions.

Guidance Note 5

- a) Where, in accordance with the assessment protocol agreed under the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain an amplitude modulation component, an amplitude modulation penalty is to be calculated and applied using the following rating procedure.
- b) The analysis of amplitude modulation shall be undertaken using the Institute of Acoustics (IOA) metric described in "A Method for Rating Amplitude Modulation in Wind Turbine Noise" dated 9th August 2016 or any update of that method. The value of AM obtained with the IOA metric for each ten-minute period shall be converted to a penalty in decibels in accordance with the graph below. At each integer wind speed, a penalty for AM would be based on the arithmetic average of the calculated penalties for all valid periods assessed at this wind speed.



Guidance Note 6

At each integer wind speed, the tonal penalty determined in accordance with Guidance Note 3 and the amplitude modulation penalties determined in accordance with Guidance Note 5 would be added arithmetically, except where the AM penalty and the tonal penalty relate to the same characteristic (eg amplitude modulated tones), only the larger of the AM or tonal penalty should be applied.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
		Environmental Appraisal
		Forestry Statement
		Outline Construction Environmental Management Plan
		Extended Phase 1 Survey
		Ornithological Survey (sensitive)
FIGURE 3-5		Control building
FIGURE 3-7		Crane hardstanding
FIGURE 3-6		Foundations
FIGURE 6-3		Infrastructure buffers
FIGURE 3-1		Location plan
FIGURE 3-2		Site layout plan
FIGURE 3-4		Turbine elevations



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
22/00563/APP

Site Address:
Lurg Hill
Deskford

Applicant Name:
Vento Ludens Ltd

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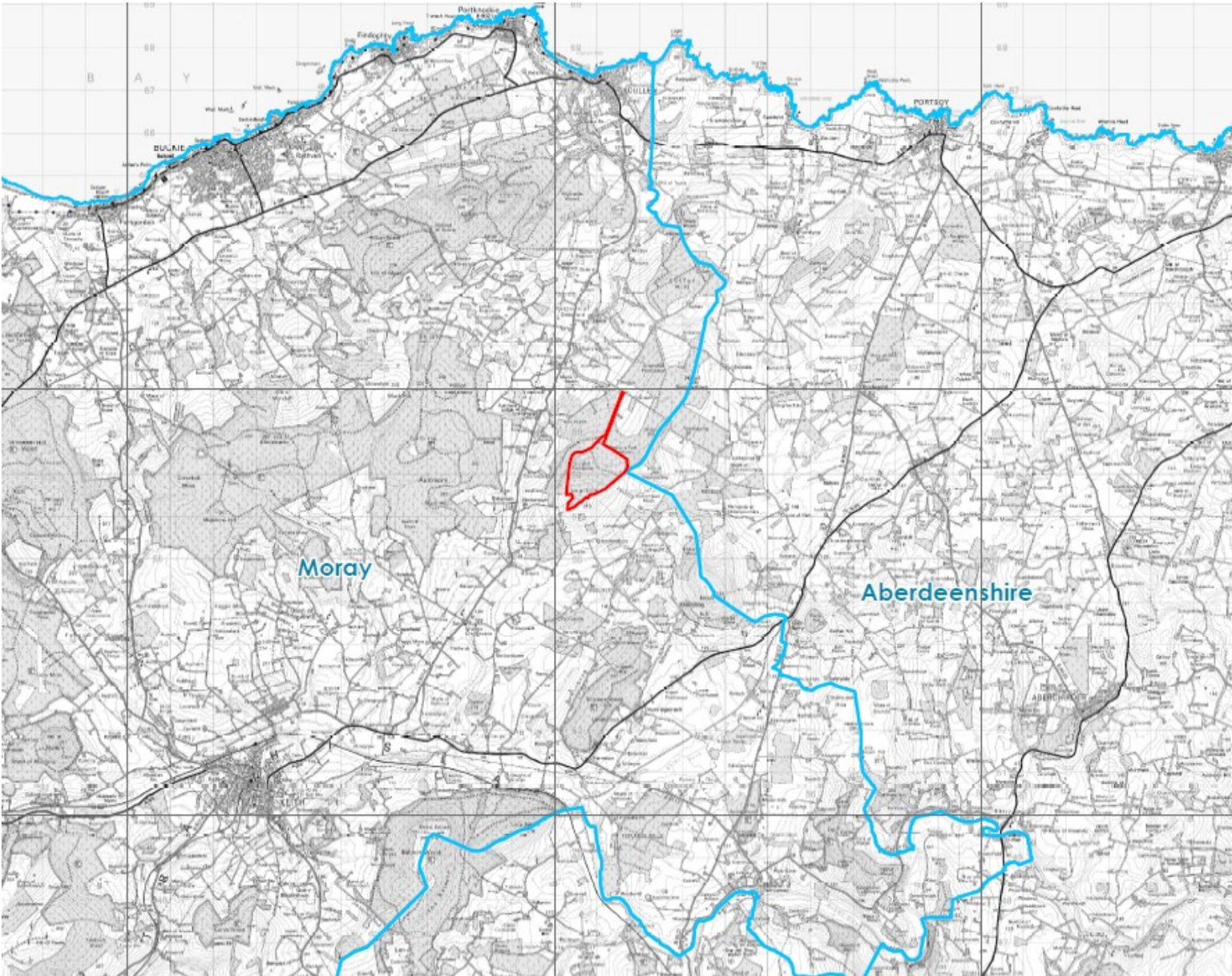
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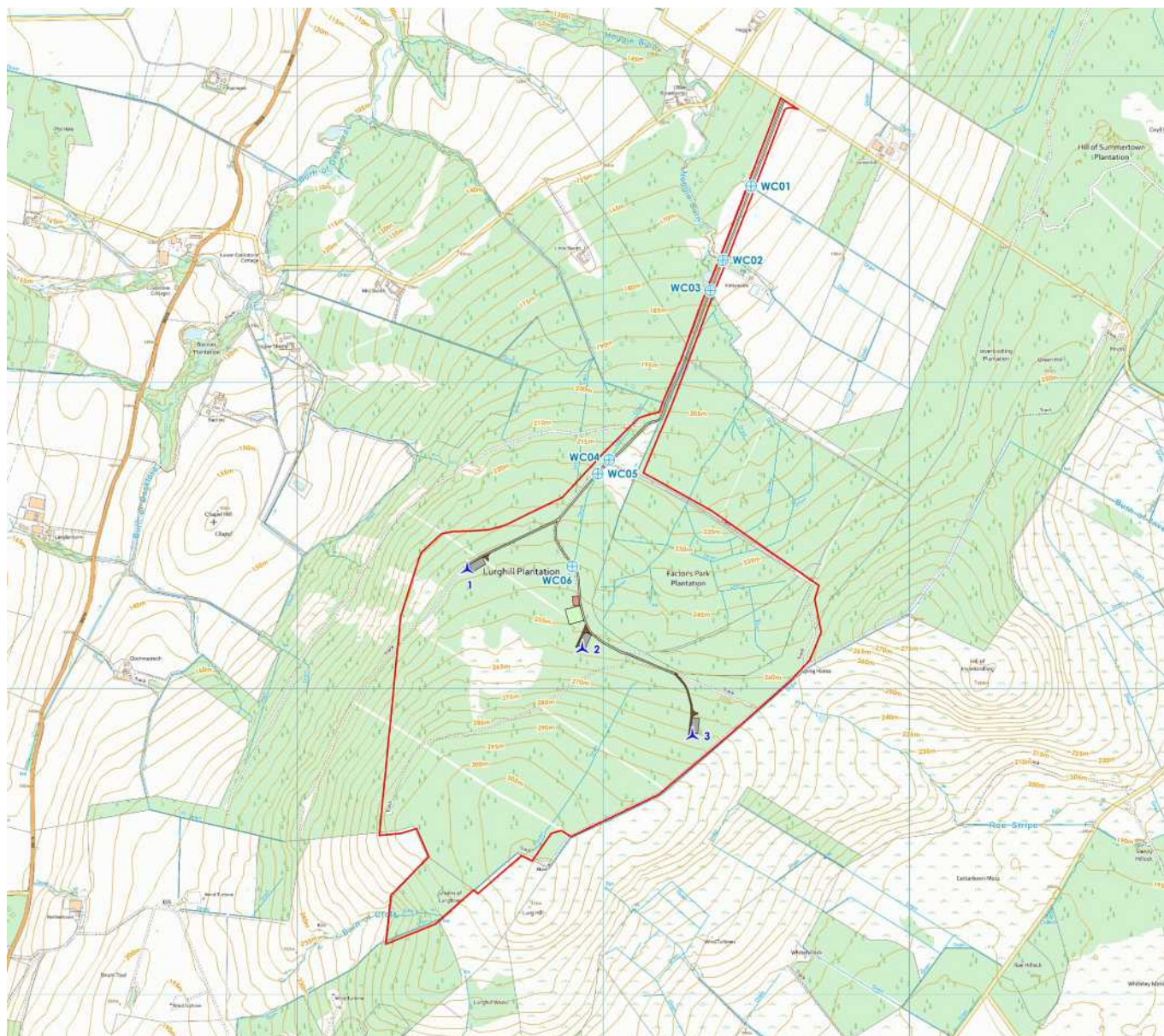
Location Plan



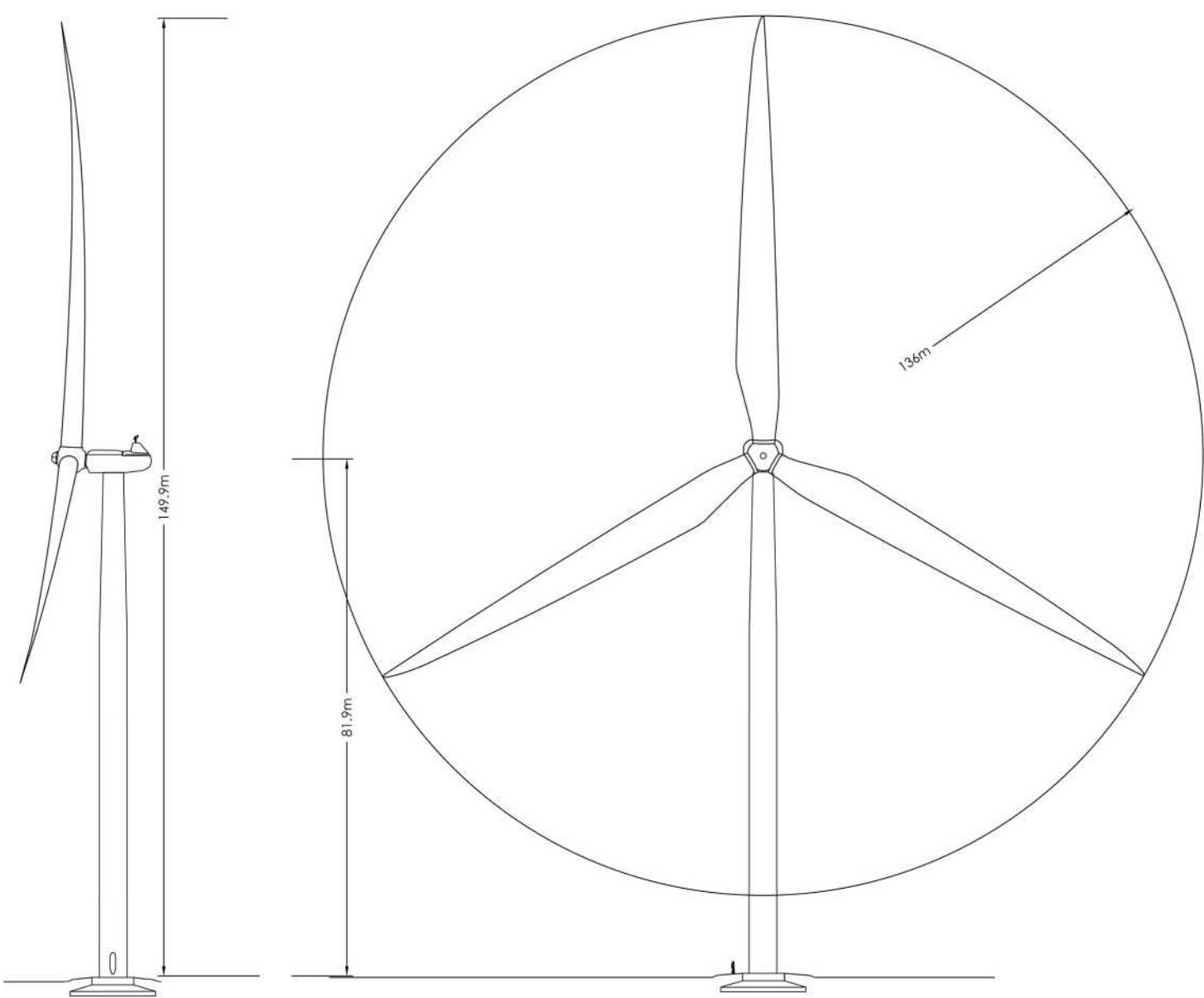
Site Location



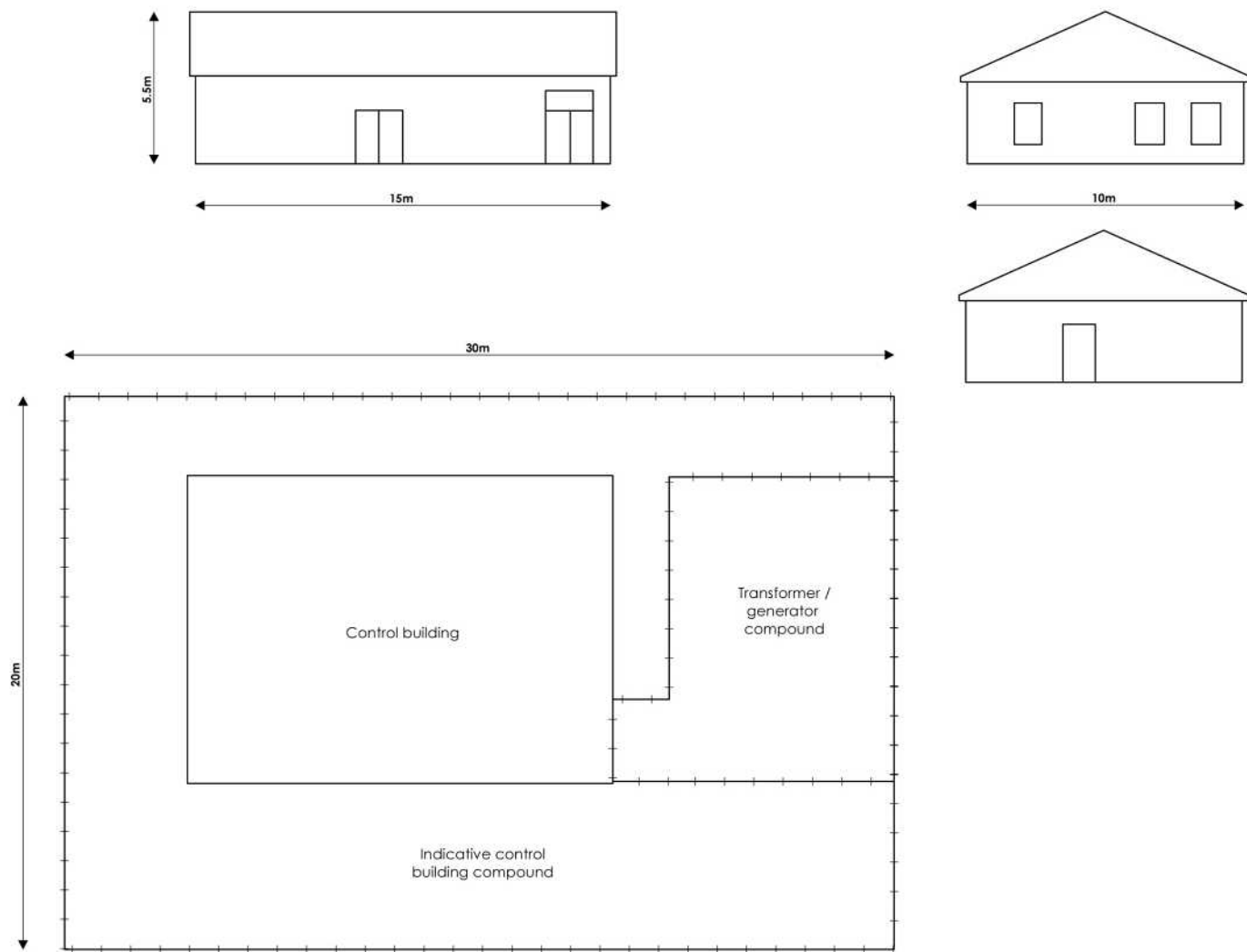
Site layout



Turbine elevations



Control building



PROHIBITED FOR THE USE WITH PLANNING APPLICATIONS

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Scale: 1:50,000 @ A4



Photo 1



Photo 2



Photo 3



PLANNING APPLICATION: 22/00563/APP

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

1. **THE PROPOSAL**

- This application seeks planning permission for the erection of 3 wind turbines (at maximum height 149.9m to blade tip), control building/substation and formation of access tracks at Lurg Hill, Deskford. This is an alternative scheme to the approved 5 wind turbine 'Consented Development' (17/01198/EIA, Planning Appeal reference: PPA-300-2052 and 22/00339/APP).
- The development components would include the following:
 1. 3 wind turbine generators of up to 149.9 tip height, with a 81.9m high hub, 136m rotor diameter and a maximum rated output of 15MW (3 x 5MW);
 2. Turbine concrete foundations (x3) up to 23m diameter, up to 3m deep (dependent on ground conditions);
 3. Hardstanding areas (x3), approx. 50m x 25m with compacted granular fill over a geo-grid, to be located adjacent to each turbine for crane and temporary storage for turbine components (to be left in place for the lifetime of the development to facilitate future maintenance, replacement of major components and decommissioning).
 4. Compound approx. 30m x 20m of hardcore surface/concrete platforms enclosed by security fencing, containing control building (approx. 10m x 15m x 5.5m) to house switchgear and other control systems plus staff welfare facilities and external transformer/generator compound area. Foul drainage would be collected in a septic tank with soakaway, and water supply for welfare facilities would be provided by water harvesting and ultraviolet filter system (or other drinking water arrangements to be agreed if not suitable).
 5. Upgraded vehicular site access point onto the public road and construction of passing places;
 6. On-site access tracks (new and upgrading of existing onsite tracks), approx. upgraded track length: 2,670m, approx. new track length: 360m;
 7. On-site electrical connections, cable trenches 1m deep, 1.2m wide installed in areas along access tracks;
 8. Watercourse crossings - 6 no. existing culverts to be upgraded; and
 9. A temporary construction compound and laydown area 50m x 50m.
- As noted from the supporting Planning Statement and Environmental Appraisal:
 - Detailed design will be completed following pre-construction works and a 50m micro siting allowance is proposed for all infrastructure

components to allow for any necessary adjustments (to allow flexibility in siting for localised ground conditions).

- The locations of the turbines and proposed infrastructure (as per the consented development) have been designed to avoid onsite environmental constraints including gradient, watercourses and peat and remain an appropriate distance away from residential properties to minimise potential impact from noise and visual impact on residential amenity.
- The proposed development is anticipated to be operational for 35 years, following which it would be decommissioned and restoration undertaken as agreed, or a new planning application submitted to extend the life of the Wind Farm.
- The application is accompanied by supporting documents including an Environmental Appraisal and associated technical appendices (Extended Phase 1 Habitat Survey and Bat Habitat Assessment, Ornithological Survey Report, Residential Visual Amenity Assessment, Shadow Flicker Assessment, Noise Impact Assessment, Forestry Statement, Abnormal Loads Assessment, Cultural Heritage Gazetteer), Design and Access Statement, Planning Statement, Outline Construction Environmental Management Plan (CEMP) and a Pre-Application Consultation Report.
- The proposed development design and footprint remains the same as the consented development, other than the changes outlined below:
 - Reduction in turbines from 5 to 3 turbines (removing the northernmost turbines nos. 4 and 5);
 - Increase in tip height from 130m to 149.9m, and rotor blade diameter from 90m to 136m;
 - Reduction in new track length from approximately 760m to 360m; and
 - Increase in turbine foundation diameter from 20m to 23m.

2. **THE SITE**

- The proposed development site is located approximately 8.7km south of Cullen and 10km northeast of Keith.
- The turbines would straddle the northern flank of Lurg Hill, located approximately midway between Cullen and Keith.
- The B9018 Keith to Cullen road runs north/south approx. 1km to the west of the site. The site partially borders Aberdeenshire Council area to the northeast.
- The total site area covers approximately 137 hectares and comprises plantation woodland (parts of which have been felled), heathland and tracks, with approx. 2.5ha land take for turbines, and associated infrastructure.
- The site would be accessed from the north via an existing access track (to be upgraded) which joins onto the nearby C4L (Bogmuchals - Berryhillock Road); the access junction onto the C4L is to be upgraded and widened.
- The site is not subject to any international, national, regional or local landscape, built environment or nature conservation designations, and there are no known designated archaeological assets within the site.

- The site is not at risk of flooding from rivers. Small parts of the site are subject to low/medium/high risk of surface water flooding, the extent of which is localised.
- The site lies within the Moray Onshore Wind Energy non-statutory guidance (2020) 'Area of Search' for medium turbines (50m to 80m) but outwith the search area for larger wind turbines.
- The 'landmark hills' of Bin of Cullen and Knock Hill lie 6km and 4km to the north-west and south-east respectively.

3. **HISTORY**

For the site:

22/01324/APP – Section 42 application to modify Condition 1 of planning permission 19/00908/APP to extend the expiration period of the consented meteorological mast at Lurg Hill to 30 September 2025 – approved 27 October 2022.

22/00339/APP – Section 42 application to vary condition 1 of planning permission 17/01198/EIA to extend the operational lifetime of the consented five turbine wind farm at Lurg Hill (Planning Appeal Reference:PPA-300-2052) from 30 years to 35 years - approved 5 July 2022.

21/01269/PAN – Proposal of Application Notice for proposal to construct 5 wind turbines with tip height of up to 149.9m plus associated infrastructure on Lurg Hill, Deskford. Responses dated 3 September and 14 October 2021 confirmed consultation arrangements and publicity event to be acceptable, and provided feedback from the Planning and Regulatory Services Committee to be taken into account in the development of the application. This highlighted the need for the Applicant to mitigate against the impact the extra height of the turbines will have on the landscape by positioning them appropriately; and that connectivity issues be borne in mind for members of the public with poor internet connection during the virtual public consultation.

21/00843/PEMAJ – Pre application major development enquiry to erect 5 wind turbines with a tip height of up to 149.9m, associated infrastructure, crane hardstandings, onsite access track, working areas and substation at Lurg Hill, Deskford. Response issued 5 August 2021 provided pre application advice including policy comments, consultee input and requirements in terms of supporting information to accompany any application.

20/01600/SCN - Screening Opinion adopted 19 January 2021 for proposed development of up to 5 wind turbines with a tip height of up to 149.9m, associated infrastructure, crane hardstandings, onsite access track, working areas and substation at Lurg Hill, Deskford; assessment confirmed the proposal to be a Schedule 2 development but not likely to result in significant environmental effects when compared to the existing consented development, and therefore not requiring to be subject to EIA procedures.

17/01198/EIA – Erection of 5 wind turbines (at max height 130m to blade tip) control building and substation and formation of access tracks (including turning

heads) hardstanding temporary construction compound and associated works and infrastructure at Lurg Hill, Deskford - approved/allowed at appeal by the Planning and Environmental Appeals Division (DPEA) on 25 February 2019 (Planning Appeal Reference:PPA-300-2052).

15/01340/SCO - Scoping Opinion issued for 6 turbines with tip height up to 130m at Lurg Hill, Deskford - response confirmed that EIA was required and environmental issues and potential impacts to be taken into account were identified.

For the area:

21/01887/SCO - Scoping Opinion request for the redesign of Consented Aultmore Wind Farm 16 turbines up to 200m to blade tip. Scoping response to Energy Consent Unit issued 20 January 2022. This site lies 3.4km to the west of the application site.

21/00484/APP – Vary condition 1 attached to planning permission 16/01657/APP to increase the operational life period of Aultmore Wind Farm (13 wind turbines (12 x 110m high, and 1 x 90m high) from 27 to 30 years at Aultmore Forest, Drybridge - approved 20 August 2021. This proposal lies 3.4km to the west of the application site and has yet to be constructed.

16/01657/APP- Vary conditions 1, 18 and 24 of planning permission 07/02375/EIA relating to the Aultmore Wind Farm approved 28/02/17. This consent was granted for a 5 year period and was extended by 21/00484/APP above. This proposal lies 3.4km to the west of the application site.

13/02057/S36 - Erection of 16 wind turbines (125m to blade tip) at Hill of Towie Windfarm, known as Hill of Towie II. Located immediately south of the existing Hill of Towie wind farm, this proposal was subject of a Public Inquiry in September 2015 (following objection by the Moray Council to the Scottish Government Energy Consents and Deployment Unit (lodged in 2014)), and subsequently approved in June 2017. This wind farm has yet to be constructed and will lie 20km to the south-west of the current proposal.

12/01165/APP - Erection of 1 no. turbine (80m to tip) at Edingight, Grange, Keith - approval/allowed on appeal by DPEA January 2013. This lies 2.1km to the south-east of the application site and is operational.

11/01384/APP - Erection of 1 no. wind turbine (56m rotor diameter) with a maximum height of up to 78m and ancillary infrastructure at Followsters, Newmill - approved February 2012. Permission to vary the turbine model (revised nacelle design) was subsequently approved under 13/00479/APP in May 2013. This lies 9.2km south-west of the application site and is operational.

10/02092/EIA - Formation of wind farm comprising 6 wind turbines (125m in height, total capacity up to 21MW) and associated infrastructure including access tracks, control building housing switchgear equipment and buried cables at Edintore, Keith - approved/allowed at appeal by DPEA in 2012. These are located approx. 15km to the southwest of the site and are operational.

09/00763/FUL - Erection of 2 x 2.3 megawatt wind turbines (92.4m to tip) and associated works at Netherton of Windyhills, Grange Crossroads - approved October 2010. These are located 1.4km south-west of the current application site and are operational.

09/00247/FUL - Install two 800kw wind turbines (79m to tip) at Myreton, Crossroads - approved/allowed following review by Local Review Body July 2010. These are located 1.5km to the south-west of the application site and are operational.

07/01102/FUL - Install a 50kw wind turbine with a hub height of 50m and blade diameter of 48m (79.6m to tip) at Myreton, Crossroads - approved February 2008. This lies 1.4km to the southwest of the application site and is operational.

07/02375/EIA - Construction, operation and decommission of a wind farm comprising 13 wind turbines (12 x 110m high, and 1 x 90m high) and other ancillary development at Aultmore Forest, Drybridge - approved 27.02.2014 and subsequently extended on 28.02.2017 under application 16/01657/APP to vary conditions 1, 18 and 24 of planning permission 07/02375/EIA (extension to time limit and operational period, and noise levels). This proposal lies 3.4km to the west of the application site and has yet to be constructed.

04/02472/FUL - Construct 1 no. wind turbine (70m to tip height) at Balnamoon, Crossroads, Keith - approved/allowed on appeal by Scottish Ministers October 2005. This lies 3.5km to the south-west and is operational.

02/02099/EIA - Erection of 21 wind turbines (100m to tip) and 2 wind masts at Hills of Towie, Knockan and McHattie's Cairn, Drummur - approved/allowed on appeal in 2005. These lie 18km to the southwest and have been erected and are operational.
Aberdeenshire turbines:

APP/2009/3565 - Erection of 2 no. wind turbines (99.5m to tip) at Land at Muirake, Cornhill, Banff - approved 2010. These are located 5km to the east and are erected and operational.

APP/2012/2786 - Erection of 1 no wind turbine (79m to tip) at Land at Braeside, Fordyce, Banff - approved August 2012. This lies 3.5km to the north-east and has yet to be constructed.

APP/2003/1692 - Erection of 7 Wind Turbines at Boyndie Airfield, Banff - approved July 2004. These lie 12km to the north-east and is operational.

4. **POLICY - SEE APPENDIX**

5. **ADVERTISEMENTS**

- 5.1 Advertised as a departure from the development plan.
Advertised under Schedule 3 of the Development Management Regulations 2013.

Advertised for neighbour notification purposes.

6. **CONSULTATIONS**

Strategic Planning and Development (SPD) – No objection. Comments outlining relevant provisions of the Moray Local Development Plan 2020, Scottish Planning Policy (SPP) (Spatial Framework) and Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 and Moray Wind Energy Landscape Capacity Study 2017.

Notes that the principle of development has been established through the existing consent and the proposal seeks to increase the heights of the consent turbines by 19.9m to 149.9m (blade tip). The proposal is likely to incur significant adverse landscape character and visual effects, however these effects need to be considered in the context of the consented scheme and the omission of two turbines of the consented scheme would provide some limited mitigation of visual effects in close views from residential properties and Cullen House. With this mitigation and when compared to the consented scheme, for landscape and visual effects, the proposal is considered to be an acceptable departure from Policies DP1 and DP9, subject to Turbines 4 and 5 of 17/01198/EIA not being constructed alongside the proposal.

The development proposes enhancement measures which will lead to biodiversity gain through the restoration of woodland and habitat reinstatement. The proposal will result in the permanent removal of 9.3ha of woodland that requires off-site compensatory planting and a management plan must be submitted for approval by Scottish Forestry and the Planning Authority prior to commencement of development.

Note that the proposed development will generate up to a maximum of 15MW of renewable electricity, helping meet the Scottish Government's renewable energy generation targets in the post-2020 period and help work towards the net zero GHG emission target by 2045.

The proposal complies with all other relevant policy requirements, as set out in PP3 Infrastructure and Services, DP1 Development Principles, DP9 Renewable Energy, EP2 Biodiversity, EP3 Special Landscape Areas and Landscape Character and EP7 Forestry, Woodlands and Trees, subject to conditions where appropriate.

Environmental Health - No objection, subject to conditions requiring levels of noise immissions from the combined effects of the wind turbines (including application of any tonal penalty and amplitude modulation) not to exceed identified levels; the wind farm operator to log power production data, wind speed and wind direction for not less than 24 months, to be provided to the Council upon request; measures to address any complaints received including assessment of noise immissions; a 12 month monitoring scheme of noise immissions; submission of details the final make/model, design power rating and sound power levels of the turbine; construction activities including vehicle movements permitted only between 07:00 to 19:00 hrs, Monday - Friday and 07:00 to 13:00 hrs, Saturdays, and no other times (including National Holiday)

unless otherwise agreed and where so demonstrated exceptional circumstances require limited periods of construction works; no blasting in the formation and use of borrow pits; the installation of a shadow flicker impact control unit to turbine 1; and measures to address any complaints received regarding shadow flicker.

Environmental Health, Contaminated Land - No objection.

Environmental Health, Private Water Supplies - No objection, subject to condition requiring submission/approval of details of arrangements to monitor private water supplies during all stages of the development, and in the event of any adverse effects on water quality or quantity being identified, the arrangements and procedures to undertake restorative and remedial works to maintain any supply. This shall include 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.

Informative advice regarding notification to the Council of any water supply to the control building for human consumption which involves a new source or connection to a private water supply.

Scottish Water – No objection. The proposed development activity and site boundary falls within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. The Muireisk Intake (River Deveron) supplies Turriff Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. The development activity is a sufficient distance from the intake that it is likely to be low risk, however care should be taken and water quality protection measures must be implemented. Informative advice seeking notification to Scottish Water prior to works commencing.

Environmental Protection/Moray Access Manager - No objection.

Transportation Manager - No objection, subject to conditions as recommended requiring detailed proposals of abnormal load trial run(s) to be undertaken prior to construction and deliveries to determine additional accommodation works, restrictions, frequency; a Construction Traffic Management Plan; details of upgrading works of the C4L (Bogmuchals - Berryhillock Road)/site access junction including access width, radii, kerbing, visibility splay and drainage; detailed drawings/construction of 3 passing places on the C4L road; road widening/alterations/verge hardening to be permanent for duration of development; evidence of a signed S96 'Wear and Tear' agreement including a 'before and after' condition video surveys required for delivery and construction traffic routes; etc.

Moray Flood Risk Management - No objection, subject to conditions regarding submission/approval of a detailed drainage design and SUDs measures; a construction surface water management to include a map of all watercourses, mitigation proposals and justification of appropriateness, map of mitigation locations and emergency and spill procedures; drainage management plans to address surface water and foul drainage; and details of

stream crossings and all water course engineering designed to accommodate the 1 in 200 year flows (including a 30% allowance for climate change).

SEPA – Notes that the application comprises no changes to the footprint or location of infrastructure of the consented development (Planning application 17/01198/EIA, Planning Appeal PPA-300- 2052) apart from an increase in tip height and the removal of the two northern most turbines. For the previous application SEPA requested conditions be attached to any consent and these were attached to the consented development.

As there are no changes to the proposal in relation to its own interests, SEPA requests that the same, or similarly worded conditions be attached to any consent for the present application for the three turbines. It also requests that condition wording is updated to ensure that detailed peat probing results in the vicinity of turbine 1 is supplied with the CEMP to show that deep peat will be avoided.

(Officer Note: For sake of completeness, these conditions require the submission/approval of a plan showing how the finalised micro-sited layout has been designed to minimise impacts on and avoid areas of deep peat; a site-specific Construction and Environmental Management Plan (CEMP) to address all waste management, pollution prevention and environmental management issues; details for all water crossings, to be designed to accommodate 1 in 200 year peak flows (with allowance for climate change) to reduce flood risk; and no borrow pits to be permitted.)

NatureScot – NatureScot has reviewed the application documents and confidential ornithological report. Notes that it has provided advice in the past for this site and there are no impacts on designated sites or issues that would raise concerns of national interest. In support of their planning application the applicant has submitted an environmental appraisal (EA). This includes chapters on ecology and ornithology which include mitigation that is appropriate to minimise the risk to ecological interests during the construction and operation of the wind farm.

RSPB Scotland – No response at time of report.

Scottish Forestry – Scottish Forestry (SF) has previously (17/01198/EIA) been in pre-consultation discussion with the developer in regard to this application and the revised forestry statement incorporates proposed amendments to the previous application, primarily a reduction in the area of woodland loss requiring off-site compensatory planting.

Scottish Forestry notes that whilst considerable effort has been taken to reduce the need to permanently remove woodland, it is unavoidable that 9.3ha of compensatory planting will be required to ensure that there is no net loss of woodland as a result of this development. Commitment from the applicant to provide this planting is set out within the Forestry Statement summary submitted with the application.

Based on the above, SF raises no objection subject to a condition requiring delivery of compensatory planting (CP) through an approved management plan agreed with SF and the planning authority prior to the commencement of the

proposed development and the felling of trees. The CP must provide all the details of the proposed planting, including its maintenance over the entire life-span of the development.

Historic Environment Scotland – Historic Environment Scotland (HES) has assessed the application for its historic environment interests and has no comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

Transport Scotland - No objection, subject to conditions requiring submission/approval of the routing of any abnormal loads on the trunk road network, accommodation measures and traffic management; additional signing or temporary traffic control measures; proposals for an abnormal loads delivery trail-run with involvement of Police Scotland; a Construction Traffic Management Plan (CTMP); all vehicles transporting construction material to and from the proposed development to be sheeted; installation of vehicle wheel cleansing facilities; and decommissioning plan.

Aberdeenshire Council - No objection. Notes that conditions as detailed under PPA-300-2052 (or variants of such) will apply to the current application, and recommends no further conditions. Also provides a justification statement for information purposes setting out the principle matters for consideration from Aberdeenshire Council's perspective, which relate to landscape and visual impact and resultant noise experienced by sensitive receptors:

Noise

Aberdeenshire Council's Environmental Health service advises no objection. It advises:

Regarding operational noise and receptors in Aberdeenshire, as the development is within Moray Council area it's Moray Councils responsibility to scrutinise the NIA in detail and set appropriate noise limits for all properties, whether in Moray or Aberdeenshire. It is noted that the nearest properties lie within Moray. Provided that reasonable noise limits are set, Environmental Health has no concerns.

An attached consultation response from the Environment Health Service highlights Amplitude Modulation effects which (based on experience in Aberdeenshire) feature in the majority of noise complaints and as such recommends that this should be considered and applied as a condition if the Planning Authority are minded to grant consent.

Assessment of Landscape and Visual impact

In assessing the Landscape and Visual impact of the proposed 3 x 149.9m high (to tip) turbines, they must be considered in the context of the consented scheme comprising 5 x 130m high turbines. It is acknowledged that 3 principal viewpoints have been identified within Aberdeenshire area (Durn Hill (11), Findlater (12) and Cornhill (8). Having now looked at the comparison viewpoints, along with the ZTV's and wirelines of the proposed development and the consented development, it is acknowledged that there is some additional visual dominance in that the turbines will be more visible from some

of the highlighted visual receptors as a result of both the height increment and blade diameter increment. However, it is considered that the increment in height of the 3 southern turbines within the group is somewhat off-set by the removal of the 2 northerly consented turbines from the development.

The increment in scale of the proposed development is more noticeable at locations in close proximity to the proposed site. These locations are outwith the Aberdeenshire Council boundary.

Taking account of the above, the magnitude of change between the consented and proposed developments is considered to be low. On this basis, Aberdeenshire Council raise no objections to the development.

Aberdeenshire Council Archaeology Service - No objection. Requests that comment to be passed to applicant to note that Durn Hill Hillfort (8km to the northwest of the application site) is now designated as a scheduled monument (SM 13748).

MOD Safeguarding – No safeguarding objection, subject to conditions requiring the submission/approval of an Air Traffic Control Radar Mitigation Scheme to mitigate the impact of the development upon the operation of the Primary Surveillance Radar at RAF Lossiemouth, an aviation lighting scheme covering construction and operational phases to maintain civil and military aviation safety requirements, and a scheme for aviation charting and safety management confirming date of commencement of works, maximum height of construction equipment, date wind turbines are brought into use and final coordinates and maximum heights of wind turbines and any anemometer mast(s).

National Air Traffic Systems - No safeguarding objection.

Civil Aviation Authority - No response received at time of report.

Aberdeen International Airport Ltd – No objection.

Atkins Global - No objection.

Joint Radio Company (JRC) Windfarms – No objection.

Ofcom - No response received at time of report.

Scottish and Southern Energy - No response at time of report.

Cullen and Deskford Community Council - No objection.

Strathisla Community Council - No response at time of report.

7. **OBJECTIONS-REPRESENTATIONS**

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the

[REDACTED]

Issue: Shadow flicker concerns affecting nearby residential property due to the close proximity of the nearest turbines, forests may partially screen property from the wind farm for the foreseeable future, but at some point this will be felled, exposing neighbours to turbines that are too close to residential properties.

Comment (PO): From the Environmental Appraisal and updated shadow flicker modelling, three inhabited residential properties to the north are likely to experience potential shadow flicker effects from the northern-most turbine 1, exceeding UK Government guidelines of 30 hours of shadow flicker per year or 30 minutes per day. In order to mitigate these impacts the applicant proposes to install a shadow flicker impact control unit/module to turbine 1 (which would stop and start the turbine during the affected periods) similar to mitigation proposed for the consented development. The Environmental Health Section has reviewed and is content with this information, and has raised no objection subject to imposition of a condition requiring installation of a shadow flicker control module to turbine 1, and measures to address any complaints received regarding shadow flicker.

Issue Grateful that the developers listened to the community and omitted turbines no. 4 and no. 5 from the new development proposal, however was not given any reassurances that the two excluded turbines would not be constructed at a later date.

Comment (PO): The proposed development and associated impacts have been assessed based on evaluation of the submitted plans and information for 3 wind turbines only. As the current proposal and consented development occupy the same area, to ensure a satisfactory form of development (and avoid any ambiguity regarding the terms of this consent) a condition shall be imposed preventing the implementation of this permission in addition to, or in conjunction with the consented development. The applicant has confirmed that it does have an intention to erect turbines 4 and 5 of the consented development.

Issue: Adverse visual impact on the area due to the size of the proposed wind turbines,

Comment (PO): The proposal is considered, on balance, to represent an appropriate form of renewable development for this location with acceptable visual impacts, as outlined within the observations section below. The proposed Development would introduce changes to the proportions of the turbines and a reduction in turbine numbers when compared with the Consented Development. While adverse effects on landscape character and views would be associated with the proposal, these effects require to be considered in the context of the existing consent of a wind farm on this site.

Issue: Impacts on wildlife during construction and operation of the wind farm.

Comment (PO): The EA has assessed the likely effects of the development on ecological and ornithology interests, and predicts no significant adverse impacts subject to mitigation measures identified within the EA being fully

implemented. NatureScot has raised no concerns in relation to the proposal, and from review of the chapters on ecology and ornithology in the EA considers that the proposed mitigation is appropriate to minimise the risk to ecological interests during the construction and operation of the wind farm.

Issue: The planning documentation contains a mistake, contributor's property is not the stated distance from the nearest turbine which is closer.

Comment (PO): The applicant has clarified that page 12 of the Residential Visual Amenity Assessment (RVAA) contains an error. The distance to the contributor's property (Little Skeith) of 1.86km should read 1.1km, as per Table 1 of the RVAA. The distance is evident from the maps within the RVAA and has informed the assessment conclusions.

8. **OBSERVATIONS**

8.1 **Background**

For this application, the Pre-Application Consultation Report outlines the extent of the applicant's engagement with the local community in accordance with the Proposal of Application Notice (PAN) (21/01269/PAN). This included holding an online virtual public exhibition (attended by 11 people), a second physical in-person public exhibition (attended by 6 people), consultation with Cullen and Deskford Community Council, Strathisla Community Council, Deskford and District Community Association, Fordyce and Sandend Community Council, implementation of a dedicated project website and circulation of two separate letters to 102 local residents within a 2km radius from the proposed development. Nine feedback forms were completed/submitted across both public events.

- 8.1.1 The report sets out that an interim design (for 5 turbines) was presented to local residents at the virtual public exhibition held in October 2021, with the design being based on the proposed layout for the consented development. Comments raised through consultation then informed the progression of the final project design and amendments were made to the proposals by removing turbines 4 and 5, and the assessment, where necessary. Topics of concern to local residents included ecology and ornithology, transport, visual impacts, noise, access and the impact on local communities. These concerns were previously addressed within the application for the consented development and where relevant were taken forward in the final assessment and design of the current proposed development. Furthermore design changes made following the first public exhibition in October 2021 directly addressed comments received from the public, in particular in relation to feedback regarding turbine 5. As noted from the report the removal of turbines 4 and 5 has lessened the effects of the proposed development further, particularly in respect to noise and visual effects, without compromising the overall positive contribution to achieving climate change targets.
- 8.1.2 An EIA Screening request has been submitted alongside the application. From review of this request and having screened the application against the EIA Regulations the proposal is not considered to be EIA development.

- 8.1.3 Following consideration of the revised draft National Planning Framework 4 which was laid before parliament on 8th November 2022, the draft (yet to be formally adopted) is to be given no weight in the consideration of planning applications. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.
- 8.1.4 The main issues are considered below.
- 8.2 **Relationship of proposal to national renewable energy policy/guidance**
International and UK policy frameworks are supportive of renewable energy proposals which help to facilitate a transition to a low carbon economy. National Planning Framework (NPF3) for Scotland sets out the spatial strategy for Scotland's development. NPF3 makes specific reference to onshore wind energy having an important role in delivering the commitment to a low carbon energy generation. The revised draft National Planning Framework 4 (not adopted) sets out that measures to address the global climate emergency and nature crises, and that reduction of carbon emissions will be accelerated. This includes support for all forms of renewable energy development, onshore and offshore.
- 8.2.1 The Climate Change (Scotland) Act 2009 (the Climate Change Act) has committed Scotland to becoming carbon-neutral by 2045. This target is legally binding rather than an ambition and requires to be reflected in the way in which renewable energy projects are addressed by public bodies when exercising their functions. Beyond NPF3 there are a number of considerations relevant to the planning consideration process, which have been taken into account in arriving at the recommendation below. These include amongst others, The Scottish Government's Programme for Scotland 2020-21, The Environment Strategy for Scotland, February 2020, Climate Change (Emissions Reductions Targets) (Scotland) Act 2019, Scottish Government Climate Change Plan (2018), Scottish Government Onshore Wind Policy Statement 2017 and Scottish Energy Strategy (2017). These highlight the need to reduce carbon emissions (for which wind energy will play key a part) but do qualify this with the need to protect landscapes, built and natural heritage, residents and other interests.
- 8.2.2 The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The applicant's Planning Statement sets out that national policy is significant and supportive of this proposed wind farm which will provide clean renewable energy, contributing to electricity supply, and support measures to tackle climate change.
- 8.2.3 Scottish Planning Policy (SPP) requires that "planning should direct the right development to the right place", which is an important issue in this proposal. The policy principles set out for "Delivering Heat and Electricity" in SPP include;
- Support the transformational change to a low carbon economy, consistent with national objectives and targets;
 - Support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity and the development of heat networks;

- Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

8.3 **Spatial Framework**

Scottish Planning Policy (SPP) requires planning authorities to set out, in the development plan, a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following a set methodology (Para 161). This has been done through the Spatial Framework within the Moray Local Development Plan (MLDP) 2020, which has been a broad-brush approach required to comply with SPP and covers a significant land area of Moray. All the proposed turbines are located within an area with potential for wind farm development of turbines over 35 metres to tip height, with no upper height limit identified.

- 8.3.1 The limitations of the very strategic Spatial Framework are recognised and SPP (Para 162) further requires that local development planning authorities should identify where there is strategic capacity for wind farms and areas with the greatest potential for wind development. The Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 identifies such areas and none of the proposed turbines are located within an Area of Greatest Potential for Very Large Turbines, Extensions and Repowering. Notwithstanding this, the principle of development has been established by the existing consent and therefore the proposal is considered to support the principles of SPP highlighted above.

8.4 **Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 and Moray Wind Energy Landscape Capacity Study 2017**

The MOWE Non-Statutory Guidance and the Landscape Capacity Study are material considerations for development management purposes. Incorporating the outcomes from the Landscape Capacity Study, the Guidance identifies five typologies of wind turbine, including “Very Large 130m-150m” (to blade tip), and highlights that there is very limited scope to accommodate further large scale wind turbine developments in Moray in landscape and visual terms.

- 8.4.1 The proposed development is located within the *Broad Forested Hills Within Upland Farmland* (8a) Landscape Character Type (LCT) as defined in the Guidance and Landscape Capacity Study. LCT8a is assessed as having high sensitivity to the very large typology (>130m) with no scope to accommodate turbines of this scale in this landscape. In this case, the principle of development has however been established at this location through the existing consent and the proposal seeks to increase the heights of the consent turbines by 19.9m.

8.5 **Moray Local Development Plan 2020**

8.6 **Principle of Renewable Energy Proposal (DP9 and PP2)**

Policy DP9 Renewable Energy states that all renewable energy proposals will be considered favourably where they meet the following criteria:

- They are compliant with policies to safeguard and enhance the built and natural environment;
- They do not result in the permanent loss or permanent damage of prime agricultural land;

- iii. They avoid of address any unacceptable significant adverse impacts including:
- Landscape and visual impacts.
 - Noise impacts.
 - Air quality impacts.
 - Electromagnetic disturbance.
 - Impact on water environment.
 - Impact on carbon rich soils and peat land hydrology.
 - Impact on woodland and forestry interests.
 - Traffic impact mitigation during both construction and operation.
 - Ecological Impact.
 - Impact on tourism and recreational interests.

8.6.1 In addition, the policy sets out proposals will be considered against the extent to which it contributes to renewable energy generation targets, effects on greenhouse gas emissions and economic benefits, such as employment.

8.6.2 For onshore wind turbines the policy states that detailed consideration will be determined through site specific consideration of matters such as landscape and visual impact, cumulative impact, along with other impacts such as noise, shadow flicker, visual dominance etc., on which further guidance is set out in the MOWE Non-Statutory Guidance and as informed by the Landscape Capacity Study. The submitted Environmental Appraisal Report (EA-R) provides an assessment of these potential impacts which are detailed within the observations section below.

8.6.3 The Planning Statement (PS) sets out that the proposed development will generate up to a maximum of 15MW of renewable electricity, helping meet the Scottish Government's renewable energy generation targets in the post-2020 period and assist towards meeting the net zero emission target by 2045. This is anticipated to generate an average annual electricity output in the region of 52,500 MWh, the equivalent of electricity for approximately 14,000 households and offsetting 22,601 tonnes of carbon dioxide per year, for its proposed 35-year life. It will therefore make a notable contribution to progress towards achieving the targets set out in the Renewables Route Map and the Onshore Wind Policy Statement. It will also contribute to employment opportunities and likely result in beneficial impacts in terms of job creation and opportunities for local businesses.

8.6.4 PP2 Sustainable Economic Growth states that development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the natural and built environment is safeguarded. As noted from the Planning Statement the proposed development would contribute to continued growth of the construction and engineering industry within the region through the provision of employment opportunities.

8.7 **Landscape and Visual Appraisal
(DP1, DP9 and MOWE Supplementary Guidance)**

As already outlined, policy DP9 Renewable Energy supports wind energy proposals in locations where the landscape is capable of accommodating the development without unacceptable significant adverse impacts on landscape

character or visual amenity. Similarly policy DP1 Development Principles seeks to ensure that the scale and design of any development is appropriate to the landscape in which it is set. The proposal has been advertised as a departure from this policy, given that the height of the turbines exceed the height advised as appropriate to the capacity of the landscape in which they would sit.

- 8.7.1 As already outlined Landscape and Visual Impact Assessment for onshore energy proposals in Moray is assessed against Moray Onshore Wind Energy 2017 Policy Guidance (MOWE) and The Moray Wind Energy Landscape Capacity Study 2017 (MWELCS) which is a technical appendix to the MOWE. This is non statutory Supplementary Guidance forming part of the MLDP 2020 and the Landscape Capacity Study is a material consideration, referenced in policy DP9.
- 8.7.2 The Council's appointed Landscape Adviser has undertaken a detailed review of the submitted Environmental Appraisal with regard to landscape, visual and cumulative effects from the proposed development. The following assessment is based upon this appraisal and has informed the officer's consideration of these aspects of the application:
- 8.7.3 The Landscape and Visual Appraisal (LVA) set out in the EA
The Landscape and Visual Appraisal provided by the applicant principally focusses on the difference between the consented and the proposed developments. In adopting this approach, the consented development is assumed to form the landscape and visual baseline. The LVA concludes that the additional effects associated with the proposal (which comprises fewer but larger turbines) would not be significant.
- 8.7.4 The following appraisal summarises the effects of the proposed development on the existing baseline prior to reaching a judgement on the differences between the consented and proposed schemes in the conclusions to this report.
- 8.7.5 Effects on landscape character
From review of the LVA, the proposal would result in significant adverse (localised) effects on the *Broad Forested Hills within Upland Farmland* Landscape Character Type (LCT) 8a (in which the site is located). Similar adverse effects would also arise on the smaller scale valley of the Burn of Deskford which lies within the *Rolling Coastal Farmland* LCT 4a to the north of the site. No other LCTs within Moray would be significantly affected.
- 8.7.6 For the *Broad Forested Hills within Upland Farmland* LCT 8a, the Zone and Theoretical Visibility Map (ZTV) shows that the proposed development would have widespread theoretical visibility. When considered against the existing baseline, the proposed development would have a similarly localised adverse effect on the character of this LCT as the consented development. There is a slight difference in the area of the LCT physically affected by the proposed development as a result of the two removed turbines, and the increased scale of the proposed development turbines also results in very slight increases in theoretical visibility extent across the LCT. However, the underlying landscape characteristics of indistinct upland landform with simple forestry and moorland

landcover found within this LCT provide a clear upland context for development of this scale.

- 8.7.7 Taking these factors into account, the magnitude of change against the existing baseline situation is considered to be medium-high within a localised area of this LCT (within around 2km of the proposed development turbines). This magnitude of change would reduce to low for parts of the LCT or other parts of the LCT beyond this localised area surrounding the site. When considering the implications of the design change from the consented development, the LVA predicts that the increased scale of the proposed development combined with the reduction of turbine numbers would not result in notable change to the LCT.
- 8.7.8 For the *Rolling Coastal Farmland* LCT 4a, the ZTV shows that this LCT has widespread theoretical visibility across the Deskford valley with breaks resulting from the landforms of Clune Hill and Cotton Hill, the forestry of which further restricts visibility in northern parts of this LCT, including in the area around Cullen. When considered against the existing baseline, the proposed development would have an adverse effect on the smaller scale of the Deskford valley characteristics of this LCT, as an indirect consequence of the proposed development appearing on the forested ridgeline that forms the backdrop to the valley landscape below it. The magnitude of change against the existing baseline situation is considered to be medium within a localised area of this LCT (within the area of this LCT to the south of Deskford). Magnitude of change would drop to low, north of this localised area and to negligible when north of Clune Hill.
- 8.7.9 When considering the implications of the design change from the consented development, the LVA concludes that the increased scale of the proposed development combined with the reduction of turbine numbers would not result in any discernible change to the LCT.
- 8.7.10 Effects on representative viewpoints
The Zone of Theoretical Visibility map in Figure 5.6 of the EA shows consistent theoretical visibility extending within 5km of the wind farm becoming more broken in extent beyond this distance. Visibility is shielded to some degree to the north-west beyond 6km by the higher ground of Bin of Cullen and to the west beyond 8km through Millstone Hill.
- 8.7.11 14 representative viewpoints have been selected for the LVA with these being agreed with the Council. These viewpoints lie within 10km of the revised proposal, the focussed study area agreed for the LVA. The visualisations produced by the applicant show the consented and proposed schemes from each of these viewpoints to aid comparison. From review of this information, it is considered that significant adverse effects would principally occur from views close to the wind farm within the Deskford valley (including from the B9018) (Viewpoints 1 and 2) and from Knock Hill (Viewpoint 3), with reduced effects for views further from the proposal.
- 8.7.12 For these closer views the LVA predicts that the increased scale of the proposed development would be discernible in comparison with the scale of the consented development, however the proposal is more compact and with removal of two consented development turbines it would have a reduced

horizontal extent. When balancing these differences brought about by the proposed development, the LVA considers that the change experienced in these views would only slightly increase compared to that experienced for the consented development, and that the magnitude of change of the proposed development against the implications of the design change is considered to be negligible or low.

8.7.13 Effects on residential properties

The Residential Visual Amenity Assessment (RVAA) considers the visual impact of the proposed development on private views and private visual amenity from 30 residential properties within a 2km radius of the site. This has been prepared in accordance with the Landscape Institute's Technical Guidance Note 2/19 'Residential Visual Amenity Assessment' (RVAA), the purpose of the RVAA being to identify those properties where the effect of the proposed development leads to the 'Residential Visual Amenity Threshold' being reached or, in other words, where the effect could be described as overwhelming or overbearing.

8.7.14 The submitted Residential Visual Amenity Assessment (RVAA) concludes that visual amenity from 14 properties would be significantly affected but that none of these would reach the Residential Visual Amenity Threshold such that the development would become overwhelming or overbearing, due to factors such as intervening distance and screening between the properties and proposed wind turbines, and a combination of property setting, visual containment from vegetation and buildings and orientation (views from main windows/property frontages). This is a similar judgement to that reached for the consented development, the findings of which have been verified following site visits.

8.7.15 As noted from the RVAA, removal of the two northern-most turbines, and particularly Turbine 5, would provide mitigation for a number of residential properties. For these properties the RVAA predicts that there would be minor beneficial effects due to the reduced horizontal extent of the development and removal of the northern-most turbines. The increased size of the remaining three turbines is likely to be more discernible where there are close and largely unscreened views, in particular from properties 6 and 11, Clochmariech and Langlanburn, which lie 1.1km and 1.4km to the east of the proposed development. For these, the RVAA concludes that the proposed development would not cause unacceptable overbearing effects however due to the relatively narrow field of view of the proposed turbines affecting a small proportion of the overall views from both properties and the development having a more compact appearance with a reduced horizontal extent. In addition, in terms of orientation, Clochmariech, located below the site has principle views to the north with only limited oblique views of the development. Langlangurn, occupying an elevated position facing east towards Lurg Hill on the west side of the B9018 would have a view of the turbines, however this would not be to an extent that there would be a significant detrimental overbearing impact.

8.7.16 Cumulative landscape and visual effects

The LVA considers cumulative scenarios and combined effects of the proposal with other operational and consented wind farms within 10km and 20km study areas surrounding the site. Cumulative effects are predicted to range between Minor and Negligible, the extent of which would be dependent upon the location

of the receptor. In relation to cumulative effects, the LVA notes that there will be instances where differences in the turbine scale of the proposed development would increase the contrast with the scale of other nearby existing turbines, particularly Myreton and Netherton of Windyhills to the south, however these will be limited and localised in extent.

- 8.7.17 For the consented scenario, the majority of consented turbines are distant and as such have little visual interaction with the proposed development that would allow comparison of scale to be apparent. The proposed development and consented Aultmore wind farm (of 13 turbines, 90/110m high to blade tip) to the west occupy different parts of the wider skyline. The proposed development, whilst within the same wider visual context as Aultmore would not often be experienced directly in front of or adjacent to it and differences in scale with this consented scheme would not therefore be as apparent as with closer existing turbines.
- 8.7.18 As noted from the planning history for the area, a revised Aultmore wind farm proposal is currently at scoping stage and should this come forward as an application is likely to comprise substantially larger turbines up to 200m to blade tip. Significant combined cumulative effects over and above those predicted for the Lurg Hill proposal with the consented Aultmore wind farm could occur on landscape character and on views from the B9018, the Bin of Cullen and The Knock and from surrounding settlement where the two developments would be seen together and sequentially. Notwithstanding this, as the proposal is not at application stage it carries less weight than the consented Aultmore wind farm development and has not been appraised in the LVA.
- 8.7.19 Conclusions on LVA
The proposed development would introduce changes to the proportions of the turbines and a reduction in turbine numbers when compared with the consented development at this site. While significant adverse effects on landscape character and views would be associated with this proposal, these effects require to be considered within the context of the existing consent of a wind farm on this site.
- 8.7.20 The omission of the two northern-most turbines would provide mitigation of visual effects in close views from residential properties and from the Cullen House Inventory listed designed landscape (should existing forestry be felled on Clune Hill). The changes made to the size of the turbines (a difference of just under 20m) would not be readily appreciable in the majority of views from the wider area. With this mitigation and when compared to the consented scheme, for landscape and visual effects, the proposal is considered to be an acceptable departure from Policies DP1 and DP9, subject to Turbines 4 and 5 of 17/01198/EIA and 22/00339/APP not being constructed alongside the proposal.
- 8.8 **Residential Amenity (noise and shadow flicker) (DP1, DP9 and EP14)**
Policy DP1 Development Principles seek to ensure that new developments do not create pollution which may adversely affect the environment or local amenity. Policy DP9 Renewable Energy requires proposals to address unacceptable significant adverse effects on communities and local amenity

including impacts on noise and shadow flicker and the potential for associated mitigation. Policy EP14 Pollution, Contamination and Hazards sets out that development proposals which may cause significant air, water, soil, light or noise pollution should be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution, with measures to mitigate impact.

- 8.8.1 Chapter 10 of the EA addresses these effects. A revised noise assessment and updated shadow flicker modelling undertaken in accordance with relevant guidance have been submitted with the application.
- 8.8.2 Noise: The noise assessment has been undertaken based on the proposed wind turbine locations and a candidate wind turbine model accounting for the proposed increase in tip height. This predicts that noise levels from the operation of the proposed development at the closest properties would neither exceed relevant limits nor those set by the consented development. The assessment also shows that cumulative noise levels, due to the operation of the proposed Development and the closest cumulative developments within 5km, would not exceed the noise limits for the closest properties. For noise associated with the construction phase (including decommissioning phase), the noise assessment for the consented development concluded that the separation distance between the construction areas and access routes and the closest receptors was sufficient to ensure that construction-related noise effects would not cause undue disturbance. As the proposed development comprises no changes to the location of the turbines or infrastructure, the conclusions of the construction noise assessment remain unchanged. The anticipated noise effects of the proposed development therefore remain unchanged from the consented development.
- 8.8.3 The Council's Environmental Health Section has reviewed and is content with the findings of this assessment, and has raised no objection subject to conditions enabling the monitoring and enforcement of noise limits at various properties, submission/approval of full details of the final make/model of the turbine, controls on construction times, no permitted blasting or borrow pits and controls on Amplitude Modulation noise.
- 8.8.4 Shadow Flicker: The updated shadow flicker modelling undertaken for the proposal assess effects from the three turbines on surrounding properties. Seven residential properties are located within 10 rotor diameters of the proposed turbines, three of which have been identified as experiencing greater than 30 hours of shadow flicker per year from turbine 1. UK Government guidelines note that a limit of up of 30 hours per year or 30 minutes on the worst affected day is considered acceptable. The applicant proposes to install a shadow flicker impact control unit/module to turbine 1 to mitigate potential unacceptable impacts from shadow flicker to residential properties, similar to mitigation proposed for the consented Development.
- 8.8.5 The Environmental Health Section has reviewed and is content with this information, and has raised no objection subject to imposition of a condition requiring installation of a shadow flicker control module to turbine 1, and measures to address any complaints received regarding shadow flicker.

- 8.8.6 From the above and subject to the recommended conditions, the proposal is not considered to result in unacceptable significant adverse effects on noise or shadow flicker, including effects on the amenity of any nearby sensitive receptors and would accord with the amenity requirements of policies DP1, DP9 and EP14.
- 8.9 **Natural Heritage (Ecology and Ornithology) and Biodiversity (EP1, EP2 and DP9)**
Policy EP1: Natural Heritage Designations sets out that development likely to have a significant effect on European Site Designations, National Designations or Local Designations will not be permitted subject to criteria set out within the policy. Where development is likely to affect protected species, a species survey and where necessary a Species Protection Plan should be prepared to accompany any planning application. Policy EP2: Biodiversity sets out that all development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Policy DP9 Renewable Energy requires proposals to avoid or address significant adverse impacts on ecology.
- 8.9.1 There are no statutory or non-statutory nature conservation designations within the application site. Designated sites within the wider area include Reidside Moss Special Area of Conservation (SAC) and SSSI, designated for its active raised bog priority feature which lies approx. 9.25km to the east southeast; Sheilwood Pastures SSSI located approx. 5.59 km to the southeast designated for its biological features; and the Moray Firth Special Protection Area (SPA) which supports identified non-breeding and migratory bird species of European importance 7.4km to the north.
- 8.9.2 Chapter 6 and 7 of the EA evaluates the effects of the proposed development on ecological and ornithology interests on the site, and has been supported by an ecological desk study and two Technical Appendices: 6-1 Extended Phase 1 Habitat Survey and Bat Habitat Assessment, and 7-1 Ornithological Surveys. These predict no significant effects or adverse impacts, including cumulative effects subject to mitigation measures identified within the EA being implemented.
- 8.9.3 The extended Phase 1 Habitat survey found the site to support habitats typical of those within conifer plantation sites within the surrounding area and Scotland in general. The identified habitats comprised predominantly coniferous plantation, improved grassland, amenity grassland and semi-natural coniferous woodland.
- 8.9.4 The Habitat survey included a daylight bat feature assessment to identify potential or confirmed roost sites, along with six months of vantage point surveys, and a raptor survey. During the survey visible signs of badger and pine martin, and bat flights were noted, but no setts, dens or bat roosts were recorded (similar to the findings for the consented development).
- 8.9.5 The recorded level of ornithological activity for the proposed development was observed to be very similar to that for the consented development, with no evidence of breeding within the site. Species were typical of that found within a

commercial forestry plantation and none were recorded in such numbers at heights and location to be considered at collision risk.

- 8.9.6 The EA also sets out that the proposal would have no adverse effects on the Moray Firth Special Area of Protection (SPA) due to the separation distance with the proposed development site and fact that no qualifying species of the SPA were observed on site.
- 8.9.7 The applicant proposes a range of mitigation measures and adherence to good practice measures during construction and operation to minimise ecological impacts from the proposal during construction and operation. These include the provision of; a Construction Environmental Management Plan (CEMP), with the full scope to be agreed with Moray Council in consultation NatureScot and SEPA, prior to development commencing; Construction Method Statement; appointment of an Ecological Clerk of Works to oversee works, monitor ecological constraints and audit appointed contractor's environmental performance, delivery of toolbox talks and supervision of construction work; adoption of 'best practice' to reduce/prevent pollution of watercourses and incidents; pre-construction species and bird surveys, with results informing whether the CEMP will include further mitigation with regard to protected species and consultation with NatureScot; re-instatement of habitats to areas subject to disturbance, such as the temporary construction compound area; and establishment of a Habitat Management Plan (HMP).
- 8.9.8 NatureScot has been consulted and has advised that there are no impacts on designated sites or issues that would raise concerns of national interest. It is also content with the ecology and ornithology chapters within the EA, which set out appropriate mitigation to minimise the risk to ecological interests during the construction and operation of the wind farm.
- 8.9.9 From the above considerations and subject to conditions where recommended, the proposal is not considered to result in unacceptable significant adverse effects on nature conservation (ecological and ornithological) interests), and would accord with development plan policies EP1, EP2 and DP9.
- 8.10 **Impact on Woodland**
(EP7 Forestry Woodlands and Trees and Scottish Government Control of Woodland Removal Policy, and DP9)
Policy EP7 Forestry Woodlands and Trees states that proposals that must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain them. Policy DP9 Renewable Energy requires proposals to avoid or adequately resolve impacts on forest and woodlands.
- 8.10.1 The proposed development site lies within a managed coniferous woodland plantation and will result in felling associated with the construction and operation of the wind farm; some woodland felling has already occurred in accordance with the existing consent for the site and an updated Forestry Statement, including felling and replanting plans, has been provided with the application. This incorporates amendments to the forestry plans as a result of the changes of the layout for a reduced number of turbines, and proposes a reduction of woodland loss requiring off-site compensatory planting of 9.3 ha (previously 12.86 for the consented scheme).

- 8.10.2 Scottish Forestry (SF) has assessed and is content with this information, and raises no objection to the proposal subject to a condition requiring delivery of compensatory planting through an approved management plan agreed with SF and the Council prior to commencement of development or felling. Subject to this condition being imposed the proposal complies with Policy EP7 and DP9.
- 8.11 **Hydrology, Hydrogeology and Geology (PP3, DP1, EP12, EP13, EP14, EP16 and DP9)**
Policies PP3 Infrastructure and Services and DP1 Development Principles (iii) Water Environment, Pollution, Contamination require development to be planned and coordinated with infrastructure to ensure places function properly, and proposals are adequately served by infrastructure and services in terms of foul and surface water drainage and water supply. Policy EP12 Management and Enhancement of the Water Environment requires surface water from development to be dealt with in a sustainable manner (SuDS) that has a neutral effect on the risk of flooding or which reduces the risk of flooding. Policy EP13 Foul Drainage requires developments to connect to the public sewage system whenever possible. Policy EP14 Pollution Contamination Hazards outlines requirements for managing pollution and contamination within development proposals. Policy E16 Geodiversity and soil resources states that developments should minimise disturbance to peat and other carbon rich soils and undertake an assessment of any potential effects. A peat depth survey must be undertaken which demonstrates areas of deep peat have been avoided. Policy DP9 Renewable Energy requires proposals to avoid adverse or address unacceptable significant adverse impacts on the water environment and carbon rich soils and peat land hydrology.
- 8.11.1 Chapter 8 of the EA addresses the potential effects of the proposed development on the hydrology, hydrogeology and geology. Given the minor changes to the layout and reduction in infrastructure, this assessment of effects has involved a review of the Hydrology, Hydrogeology and Geology information submitted with the Planning Application 17/01198/EIA, any new guidance/information, and also takes account of additional mitigations required by planning conditions of the consented development. The EA concludes that potential effects on the water environment from the proposed development remain unchanged from those of the consented development and that impacts will be negligible or minor, due to environmental measures embedded in the design, and mitigation measures to be adopted during construction and construction best practice (outlined below).
- 8.11.2 The proposed development occupies an elevated commercial forested area and is not at risk from fluvial flooding. There is some risk of localised pluvial (surface water flooding) along the main watercourses including the Hoggie Burn and in small scattered areas. Apart from watercourse crossings these do not intersect with proposed infrastructure.
- 8.11.3 Generally, any potential effects from the proposed development are expected to occur during the construction phase, at areas where infrastructure is proposed, with more limited effects during the operational and decommissioning phases. These include impacts on surface water run-off characteristics and water quality, soil erosion, accidental spillages/concrete

pollution/sedimentation entering ground water and surface water environments, effects on private water supplies and abstractions, increased flood risk, and damage to peat or GWDTE's. Where possible, these have been mitigated by environmental measures incorporated within the design of the scheme itself, and where initial impacts are not alleviated, through additional proposed mitigation measures. These measures are summarised as follows:

- The consented Development layout went through a series of changes to minimise disturbance of peat; removal of turbine 4 will mean that no disturbance of peat and therefore all peat is now avoided;
- Use of existing tracks as much as possible, with new track layout designed to minimise length. Further minimisation has been achieved by reducing tack and removing turbines 4 and 5;
- Provision of 50 m buffer zones around all watercourses except where there are watercourse crossings;
- Implementation of a Drainage Management Plan to include for turbine, track, hard standing and cable laying works and operation;
- New ditch design, track cross drainage, silt traps, dams etc. to be in accordance with guidelines as in the consented development;
- All watercourse crossings will accommodate 1:200 year flows with climate change allowance and in accordance with good practice;
- Private Water Supply monitoring arrangements;
- Appointment of an Environmental Clerk of Works (EnvCoW) during construction;
- Development/implementation of a Construction Environmental Management Plan (CEMP) and specific Construction Method Statements (CMS) to focus on good practice mitigation measures and identify measures to prevent or minimise effects on the environment including pollution prevention and environmental monitoring arrangements.

- 8.11.4 The Private Water Supply Assessment undertaken for the consented development has been reviewed as part of the current proposal. This has identified over 30 potential private water supplies (PWS) within 2km of the proposed development, however only one, located at Mid Skeith, is within the proposed development site. This is not on a public register but its zone of contribution may be within an area potentially impacted by construction and operation of access tracks. To address any potential adverse impacts from construction the EA proposes mitigation measures and a monitoring programme of this source to detect any changes to water quality and allow further mitigation to be put in place if necessary (along the same lines as the previous consented development).
- 8.11.5 Several potential Ground Water Dependent Terrestrial Ecosystem communities (GWDTE) (M23 rush pasture, M6 flush and M15 wet heath) were identified on and adjacent to the site in small clearings in the plantation and on forest rides. Following a hydrogeological risk assessment these were classified however as habitats with low groundwater dependency and largely surface water fed, and not true GWDTEs.
- 8.11.6 A peat depth survey was carried out as part of the original work for the consented development in 2017. This revealed several small areas of localised

peat within the site boundary, but none that are likely to be disturbed by construction or operation of infrastructure.

- 8.11.7 In terms of flood risk the EA concludes that the proposed development would not result in increased flood risk both on and off the site, due to its location outwith any fluvial flood risk area, site characteristics and proposed on site drainage arrangements.
- 8.11.8 From consultation, SEPA has not objected to the development in terms of its key interests (which include ground water abstractions, peat management, engineering activities in the water environment, pollution prevention and environmental management, borrow pits and GWDTE). As that there are no changes to the footprint or location of the infrastructure of the consented development SEPA has requested that the same, or similarly worded conditions be attached to any consent for the current application, with the exception of updated condition wording to ensure that detailed peat probing results in the vicinity of turbine 1 is supplied with the CEMP to show that deep peat will be avoided. These shall be re-imposed as recommended.
- 8.11.9 Scottish Water has raised no objection to the proposal and has advised that although the proposed activity and site boundary falls within a drinking water catchment where a Scottish Water abstraction is located, the activity is a sufficient distance from the intake and that it is likely to be low risk. It confirms that water quality protection measures should be implemented to ensure that water quality and water quantity in the area are protected, and in the event of an incident occurring that could affect Scottish Water it be notified immediately. It also highlights that the fact that this area is located within a drinking water catchment should be noted in documentation, contractors working on site should be made aware of this during site inductions and that Scottish Water is notified 3 months prior to works commencing to make its operational teams aware there will be activity taking place in the catchment.
- 8.11.10 The Council's Contaminated Land, following consultation, has raised no objection to the proposal.
- 8.11.11 The Flood Risk Management Section has raised no objection in terms of flooding and drainage impacts, subject to conditions requiring submission/approval of a detailed drainage design and SUDs measures; a construction surface water management to include a map of all watercourses, mitigation proposals and justification of appropriateness, map of mitigation locations and emergency and spill procedures; drainage management plans to address surface water and foul drainage; and details of stream crossings and all water course engineering designed to accommodate the 1 in 200 year flows (including a 35% allowance for climate change).
- 8.11.12 The Private Water Section has raised no objection, subject to a condition requiring submission/approval of details of arrangements to monitor private water supplies during all stages of the development, and in the event of any adverse effects on water quality or quantity being identified, the arrangements and procedures to undertake restorative and remedial works to maintain any supply. This shall include 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.

- 8.11.13 Drawing from the above and subject to the recommended conditions, the proposal is not considered to result in unacceptable significant adverse effects on hydrology, hydrogeology and geological (drainage, flooding, pollution prevention, contamination and peat) interests and would accord with development plan policies PP3, DP1, EP12, EP13, EP14, EP16 and DP9.

8.12 **Cultural Heritage (EP8, EP10 and EP11)**

Policy EP8 Historic Environment seeks to protect historic and archaeological assets. Policies EP10 Listed Buildings and EP11 Battlefields, Gardens and Designed Landscapes states that development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of listed buildings and Garden and Designed Landscapes. Policy DP9 Renewable Energy requires proposals to avoid or adequately resolve impacts on the historic environment and cultural heritage.

- 8.12.1 Chapter 9 of the EA assesses the potential for direct physical effects upon archaeological remains as well as the potential for operational and cumulative setting effects upon designated heritage assets. The methodology for the assessment follows best practice guidelines/guidance, including HES's Managing Change in the Historic Environment: Setting (Historic Environment Scotland (HES 2020) based on three study areas (1km, 5km and 10km), and includes a Zone of Theoretical Visibility Map, viewpoint visualisations and analysis of effects on a number of identified assets. The assessment predicts no significant adverse impacts on the historic environment and confirms that no mitigation is required.
- 8.12.2 One non-designated asset, a modern metal water tank, has been identified within the site which could potentially be affected by the construction of the proposed development due to micro siting. This is considered to be of negligible importance however as it is a common feature with local interest only. The potential for further, as yet unknown heritage assets for the consented development was considered low, due to the proposed development site having been heavily disturbed by ploughing and afforestation. This assessment is unchanged and as such recommends no mitigation.
- 8.12.3 In terms of the wider area, potential effects on the settings of designated heritage assets within the 5km and 10km study areas have been considered. This includes eight Scheduled Monuments, 21 Listed Buildings, the Cullen House Inventory listed designed landscape, and Berryhillock Conservation Area within the 5km study area lying within the ZTV. Detailed assessments of these assets were carried out for the consented development where it was found that there would be no significant indirect effects on their setting. The anticipated effects on these interests remain unchanged from those predicted for the consented development.
- 8.12.4 The EA includes a further assessment of potential effects on the Regionally Significant forts on Durn Hill (Asset 78, approx. 8.3km to the northeast of the development), the Bin of Cullen (Asset 123, approx. 6.4km the north northwest) and St John's Church and Tower of Deskford (Asset 21 and 66) (Category A

listed and a scheduled monument) which lie approx. 3.3km to the north. This shows that although the proposal will be visible in some views from these assets, their key archaeological, historic or architectural interests would not be impacted upon negatively due to intervening screening and woodland cover, topography, and for the fort sites, distance from the turbines and expansive panoramic views available from the sites and their landscape setting.

8.12.5 Following consultation, Historic Environment Scotland (HES) has raised no concerns regarding the proposed development.

8.12.6 The Council's Archaeological Advisor following consultation has raised no objection to the proposal.

8.12.7 From the above observations the proposal would not have unacceptable significant adverse effects on cultural heritage interests and complies with development plan policies EP8, EP10, EP11 and DP9.

8.13 Traffic and Transport (PP3, DP1 and DP9)

Policy PP3 Infrastructure and Services seeks to ensure development is planned and co-ordinated with infrastructure to enable places to function properly and are adequately serviced. Part (a) (iii) requires, where appropriate, proposed developments to mitigate/modify the existing transport network to address the impact of the proposed development in terms of safety and efficiency. Policy DP1 Development Principles (ii) sets out transportation requirements including provision of safe entry and exit from development, safe access to and from the road network and mitigation of road safety impacts. Policy DP9 Renewable Energy requires proposals to avoid or address unacceptable traffic impacts during construction and operation.

8.13.1 Chapter 9 of the EA considers potential traffic and transport impacts associated with the construction and operation of the proposed development on the surrounding public road network and on sensitive receptors. Assessment methodology has entailed scoping of routes and traffic, traffic counter data gathering, and the carrying out of an Abnormal Loads Assessment and analysis of the likely effects, along with mitigation measures to minimise any effects. The assessment predicts no significant or adverse effects on the road network, and recommends mitigation measures to reduce the potential for effects as far as practicable.

8.13.2 As previously identified, the development site will be accessed from the north via an existing access track which is to be modified for the proposed development. Other offsite road modifications (passing places etc.) to be agreed in consultation with relevant Roads Authorities are likely to be required.

8.13.3 Most traffic effects would occur during the construction phase programme which is anticipated to last approximately 6 months, with substantially reduced levels during subsequent commissioning and operational/maintenance phases. Traffic effects during decommissioning are also predicted to be significantly less than that generated for construction.

8.13.4 For the construction phase, road stone for the access tracks and hardstandings, and concrete required for construction would be sourced from

the Blackhillock Quarry, located approx. 29km to the south via the A96, A95, A9022 and C5L roads. General construction traffic (staff LGVs and cars) is anticipated to come from Keith, via the A95, A9022 and C5L roads. Based upon the submitted Abnormal Indivisible Load (AIL) Access Study, the delivery route for the turbine components would be from the Port of Inverness - A9-A96-A97-Aberchirder bypass access road, A9022 and C5L roads.

- 8.13.5 According to the EA, deliveries of road stone will take place during the first 3 months, the highest number being in month 3 with an average of 56 two-way HGV trips daily. For concrete deliveries, the highest numbers would be made during months 3, 4 and 5 (average 12 two-way daily movements), whilst for delivery of turbines, this would occur during months 4 and 5 (average 30 convoys per month). The EA predicts the increase in HGV traffic on the C5L and A9022 roads (58% and 41% respectively) which is expected given the low baseline levels of HGVs along these rural roads. It also notes that the increase in total traffic levels will be within accepted limits (set out within guidance for assessment of environmental effects of traffic (Institute for Environmental Management and Assessment (1993) 'IEMA Guidelines'), and as all impacts are on a temporary basis, and considerably lower during the other four months of the construction stage, the impact on the C5L and B9022 is considered to be minor.
- 8.13.6 With no significant traffic effects predicted to occur, the EA concludes that no mitigation is required but, as an enhanced measure, a Construction Traffic Management Plan (CTMP) will be prepared.
- 8.13.7 Following consultation, Transport Scotland has raised no objection to the development subject to conditions to address impacts on the trunk road network; these include requiring submission/approval of the routing of any abnormal loads on the trunk road network, accommodation measures and traffic management; additional signing or temporary traffic control measures; proposals for an abnormal loads delivery trail-run with involvement of Police Scotland; a Construction Traffic Management Plan (CTMP); all vehicles transporting construction material to and from the proposed development to be sheeted; installation of vehicle wheel cleansing facilities; and decommissioning plan.
- 8.13.8 Similarly, the Council's Transportation Manager has raised no objection to the development subject to conditions to address impacts on the local road network requiring detailed proposals of abnormal load trial run(s) to be undertaken prior to construction and deliveries to determine additional accommodation works, restrictions and frequency; a Construction Traffic Management Plan; details of upgrading works of the C4L Bogmuchals - Berryhillock Road/site access junction including access width, radii, kerbing, visibility splay and drainage; detailed drawings/construction of 3 passing places on the C4L road; road widening/alterations/verge hardening to be permanent for duration of development; evidence of a signed S96 'Wear and Tear' agreement including a 'before and after' condition video surveys required for delivery and construction traffic routes; etc.
- 8.13.9 Drawing from the above and subject to conditions requested by consultees, the proposal is not considered to have unacceptable significant adverse effects on

traffic and transport matters, and would accord with policies PP3, DP1 and DP9.

8.14 Aviation Issues (EP15 and DP9)

Policy EP15 MoD Safeguarding states that development proposals must not adversely impact upon MoD operations and requires consultation with the Defence Infrastructure Organisation on any proposals within safeguarding consultation zones. Policy DP9 seeks to ensure that renewable energy proposals avoid any impacts resulting from aviation and defence constraints including flight paths and aircraft radar.

8.14.1 Chapter 13 of the EA considers effects of the proposed development on civilian and military aircraft activity, including air safeguarding and radar interests. The assessment predicts that effects to Ministry of Defence (MOD) radar systems at RAF Lossiemouth are likely to occur which will require mitigation. No other impacts on civilian aviation interests are anticipated.

8.14.2 In terms of civil aviation interests, National Air Traffic Systems and Aberdeen Airport have not objected to the proposal as having unacceptable or significant adverse effects on aircraft activity.

8.14.3 For military aviation, the EIA for the consented development identified potential effects on the MoD radar at RAF Lossiemouth, and a technical solution to these was agreed with the MoD subsequent to the submission of the planning application and confirmed in the Appeal Decision for the consented development (PPA-300-2052). The solution to potential radar interference at RAF Lossiemouth by the proposed development remains the same, as agreed with MoD. As per the conditions of the consented development an Air Traffic Control Radar Mitigation Scheme will set out the appropriate measures to be implemented to mitigate the impact on the radar.

8.14.4 The MoD, following consultation, has raised no objection to the current proposal subject to conditions requiring submission/approval of the Air Traffic Control Radar Mitigation Scheme, an aviation lighting scheme covering construction and a scheme for aviation charting and safety management confirming date of commencement of works, maximum height of construction equipment, date wind turbines are brought into use and final coordinates and maximum heights of wind turbines and any anemometer mast(s).

8.14.5 From the above and subject to the conditions, the proposal is not considered to result in unacceptable significant adverse effects on military and civilian aviation and would accord with policies DP9 and EP15.

8.15 Telecommunications and Electromagnetic Interference (DP9)

Policy DP9 seeks to ensure that renewable energy proposals avoid any unacceptable significant adverse impacts including electromagnetic interference.

8.15.1 Chapter 13 of the EA considers the potential impacts of the development upon fixed communication links in the vicinity of the site. This predicts no likely effects upon telecommunications during construction or operation, as concluded previously for the consented development. It also commits to

providing mitigation should interference with fixed link frequency band signals be identified as a result of the proposed development, and if required, 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.

- 8.15.2 The turbines are located outwith the zone of influence for known communication links and therefore no impacts are predicted or require mitigation.
- 8.15.3 Following consultation fixed link network operators have not objected to the development.
- 8.15.4 As a precaution, and as adopted for the consented development, in the event of any complaint(s) being received regarding interference to television signals or other telecommunication fixed link systems, a condition shall be imposed requiring the applicant/wind turbine operator to investigate and rectify any adverse effects.
- 8.15.5 Subject to the condition, the proposal is not considered to result in unacceptable significant adverse effects upon telecommunications infrastructure and assets and electromagnetic interference, and would accord with policy DP9.
- 8.16 **Socio-economic, Recreation and Tourism Interests (DP9 and PP3)**
Policy DP9 seeks to ensure that renewable energy proposals avoid any unacceptable significant adverse impacts on tourism or recreational interests. Policy PP3 Infrastructure and Services part (b) states that development proposals will not be supported where they adversely impact on access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- 8.16.1 Chapter 12 of the EA assesses the potential impacts of the proposed development upon socio-economic, tourism and recreation interests. This predicts that similar effects would occur to those from the consented development, and these are considered to be negligible to slight beneficial and will typically be localised in nature.
- 8.16.2 Socio-economic Interests
The EA identifies a positive benefit arising in terms of expenditure and local employment. The proposed development is estimated to make a contribution to the local economy and generate a UK turnover of £10 million during the construction stage, with around £7.7 million in Scottish turnover anticipated, and circa 80 jobs during construction and through its operational life. The EA considers the construction effects to be positive, but short-term and localised, and that potential effects are be unchanged from the conclusion of the consented development 2017 Environmental Statement, and assessed to be negligible.
- 8.16.3 The EA confirms that in accordance with the Scottish Government's Good Practice Principles for Community Benefits document (published May 2019), the applicant will provide community funding in line with SG recommended

levels (£5,000 per installed megawatt of generating capacity equating to £75,000 per). The setting up of a Community Benefit Fund is not a matter that should influence the planning decision and would be arranged separate to the planning process.

8.16.4 Recreational and Tourism Interests

As the site is not currently used for formal outdoor access purposes the proposal would have a minimal effect on public access during the construction period with any impact being temporary during the construction phase. By improving access to the site and the surrounding area with access tracks being formed and upgraded, potential effects are therefore considered to be unchanged from the conclusion of the consented development 2017 Environmental Statement and are assessed to be slight beneficial.

8.16.5 The proximity of the proposed development to Knock Hill (3.62km to the southeast) would give rise to some adverse effects upon its setting and views from its summit. As the hill is popular with walkers this effect could potentially detract from the recreational value of the path, although it is acknowledged that perceptions towards turbines differ between individuals. It is considered that the change in this view however would only slightly increase in comparison to that experienced for the consented development, and would be acceptable.

8.16.6 Following consultation, the Moray Access Manager has not objected to the proposal.

8.16.7 From the above, the proposal is considered to accord with policies DP9 and PP3 in terms of socio-economic, Recreation and Tourism Interests.

8.17 **Arrangements for decommissioning and site restoration (DP9)**

Policy DP9 seeks to ensure that renewable energy proposals address appropriate provision for decommissioning and site restoration.

8.17.1 Permission is sought for a 35 year period and if permitted recommended conditions will require appropriate mitigation of the site. The EA outlines information in relation to decommissioning and site reinstatement, which would entail preparation of a restoration scheme prior to decommissioning (or submission of a new application to extend the lifetime of the wind farm). A condition is recommended which seeks a bond or other form of financial guarantee to ensure sufficient funds are available to cover all costs of site decommissioning and re-instatement, the latter to be reviewed at regular intervals during the lifetime of the development to ensure it remains sufficient to meet the costs of decommissioning.

8.17.2 Based on the above and subject to the condition the proposal is considered to comply with the decommissioning and restoration requirements of Policy DP9.

8.18 **Developer Obligations (PP3)**

No planning obligations contributions are due as such development would not have any impact on community facilities, schools etc. Separate to this it was decided by the Planning and Regulatory Services Committee on 18 October 2012 to remove the pursuit or contribution of funds to "Community Benefit Funds" from the development management system.

Conclusion

This proposal represents an acceptable renewable energy development proposal for Moray. The scheme accords with aspects of local and national planning policy regarding the expansion of renewable energy, including its contribution to renewable energy targets.

The proposed development would introduce changes to the height and blade dimensions of the turbines and a reduction in turbine numbers from five to three when compared with the consented development at this site. While significant adverse effects on landscape character and views would be associated with this proposal, these effects require to be considered within the context of the existing consent of a wind farm on this site, which carries significant weight as a material consideration.

The omission of the two northern-most turbines would provide mitigation of visual effects in close views from residential properties and from the Cullen House Inventory listed designed landscape (should existing forestry be felled on Clune Hill). The changes made to the size of the turbines (a difference of just under 20m) would not be readily appreciable in the majority of views from the wider area. With this mitigation and when compared to the consented scheme, for landscape and visual effects, the proposal is considered to be an acceptable departure from Policies DP1 and DP9, subject to Turbines 4 and 5 of 17/01198/EIA and 22/00339/APP not being constructed alongside the proposal.

Following detailed assessment and subject to conditions to avoid or mitigate any significant impacts, the proposal would be satisfy all other policy requirements set out in the Moray Local Development Plan 2020, relating to the natural and built environment, residential amenity, cultural heritage, woodland removal, the water environment, transport, noise, aviation, telecommunications, socio-economic, recreational and tourism interests.

Subject to the conditions recommended, approval should be granted.

REASON(S) FOR DECISION

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

This proposal represents an acceptable renewable energy development proposal for Moray. The scheme accords with local and national planning policy regarding the expansion of renewable energy, including its contribution to renewable energy targets.

The proposed development would introduce changes to the proportions of the turbines and a reduction in turbine numbers when compared with the consented development at this site. While significant adverse effects on landscape character and views would be associated with this proposal, these effects require to be considered within the context of the existing consent of a wind farm on this site, which carries significant weight as a material consideration.

The omission of the two northern-most turbines would provide mitigation of visual effects in close views from residential properties and from the Cullen House Inventory listed designed landscape (should existing forestry be felled on Clune Hill). The changes made to the size of the turbines (a difference of just under 20m) would not be readily appreciable in the majority of views from the wider area. With this mitigation and when compared to the consented scheme, for landscape and visual effects, the proposal is considered to be an acceptable departure from Policies DP1 and DP9, subject to Turbines 4 and 5 of 17/01198/EIA and 22/00339/APP not being constructed alongside the proposal.

From detailed assessment and subject to conditions to avoid or mitigate any significant impacts, the proposal satisfies all other policy requirements as set out within the Moray Local Development Plan 2020, relating to the natural and built environment, residential amenity, cultural heritage, woodland removal, the water environment, transport, noise, aviation, telecommunications, socio-economic, recreational and tourism interests.

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APPENDIX

POLICY

Moray Local Development Plan 2020

PP2 SUSTAINABLE ECONOMIC GROWTH

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
 - i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
 - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
 - iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
 - iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
 - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
 - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to

include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development

and connect people to education, employment, recreation, health, community and retail facilities.

- b) Car parking must not dominate the street scene and must be provided to the side or rear –and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

All renewable energy proposals will be considered favourably where they meet the following criteria:

- i) They are compliant with policies to safeguard and enhance the built and natural environment;
- ii) They do not result in the permanent loss or permanent damage of prime agricultural land;
- iii) They avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts.
 - Noise impacts.
 - Air quality impacts.
 - Electromagnetic disturbance.
 - Impact on water environment.
 - Impact on carbon rich soils and peat land hydrology.
 - Impact on woodland and forestry interests.
 - Traffic impact -mitigation during both construction and operation.

- Ecological Impact.
- Impact on tourism and recreational interests.

In addition to the above criteria, detailed assessment of impact will include consideration of the extent to which the proposal contributes to renewable energy generation targets, its effect on greenhouse gas emissions and net economic impact, including socio-economic benefits such as employment.

b) Onshore wind turbines

In addition to the assessment of the impacts outlined in part a) above, the following considerations will apply:

i) The Spatial Framework

Areas of Significant Protection (Map 2): where the Council will apply significant protection and proposals may be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential (Map 1): where proposals are likely to be acceptable subject to Detailed Consideration.

ii) Detailed Consideration

The proposal will be determined through site specific consideration of the following on which further guidance will be set out in supplementary guidance and as informed by the landscape capacity study:

Landscape and visual impact:

- the landscape is capable of accommodating the development without unacceptable significant adverse impact on landscape character or visual amenity.
- the proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

Cumulative impact

- unacceptable significant adverse impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on local communities

- the proposal addresses unacceptable significant adverse impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- the proposal addresses unacceptable significant adverse impacts arising from the location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- the proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity, forest and woodlands and tourism and recreational interests - core paths, visitor centres, tourist trails and key scenic routes.

- the proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

iii) **Extensions and Repowering of Existing Wind Farms**

The proposal will be determined through assessment of the details of the proposal against Part a) and Parts b) (i) and (ii) above. Detailed assessment of impact will include consideration of the extent to which:

- the proposal, for extensions, impacts on the existing wind farm(s) setting and the ability to sit in the landscape on its own should the existing wind farm be decommissioned before the extension.
- the proposal, for repowering, makes use of existing infrastructure and resources, where possible, and limits the need for additional footprint.

c) **Biomass**

Proposals for the development of commercial biomass will be supported if the following criteria are met.

- Applicants must confirm which form of biomass will fuel the plant and if a mixture of biomass is proposed then what percentage split will be attributed to each fuel source.
- Proposals must demonstrate that they have taken account of the amount of supply fuel over the life of the project.
- When considering wood biomass proposals, the scale and location of new development is appropriate to the volume of local woodfuel available. Sources of fuel must be identified and must be sustainable.
- The location must have suitable safe access arrangements and be capable of accommodating the potential transport impacts within the surrounding roads network.
- A design statement must be submitted, which should include photomontages from viewpoints agreed by the Council.
- There must be a locational justification for proposals outwith general employment land designations. The proposed energy use, local heat users and connectivity of both heat users and electricity networks must be detailed. Proposals which involve potential or future heat users will not be supported unless these users can be brought online in conjunction with the operation of the plant.
- Details of the predicted energy input and output from the plant demonstrating the plant efficiency and utilisation of heat must be provided.
- Where necessary, appropriate structural landscaping must be provided to assist the development to integrate sensitively.

The criteria set out in relation to all renewable energy proposals (part a) must also be met.

The Council will consult with Scottish Forestry to help predict potential woodfuel supply projections in the area.

d) **Heat**

Where a heat network exists or is planned, proposals should include infrastructure to allow connection to that network.

Where no heat network is present or planned:

- Proposals should consider the feasibility for the creation of or connection to a heat network.
- Proposals should safeguard piperuns within the development, to its curtilage, for future connection to a heat network.
- Proposals should consider the provision of energy centres, or the reservation of land for an energy centre to facilitate future connection to a heat network.

Proposals for new development will be compared with the Scotland Heat Map to identify if it could make use of an existing heat supply or provide excess heat to heat users. This will be the case until the Council has concluded work on identifying where heat networks, heat storage and energy centres exist or would be appropriate in the plan area, at which point reference to that work should be made. Developments which have a high heat demand are encouraged to co-locate with sources of heat supply.

Where heat networks are not viable, proposals should include the use of microgeneration technologies and heat recovery associated with individual properties, unless demonstrating this is unnecessary or unviable.

The criteria set out in relation to all renewable energy proposals (part a) must also be met.

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

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

In exceptional circumstances, proposals that could affect the integrity of a European Site may be approved where:

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

For European Sites hosting a priority habitat or species (as defined in Article 1 of the The Conservation (Natural Habitat & c.) Regulations 1994), prior consultation with the European Commission via Scottish Ministers is required unless the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

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

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

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

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m² or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER

i) Special Landscape Areas (SLA's)

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, minimises adverse impacts on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
 - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
 - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
 - iii) For nationally significant infrastructure developments identified in the National Planning Framework,
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
 - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
 - ii) Proposals reflect the traditional settlement character in terms of siting and design.

- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

- d) Where a proposal is covered by both a SLA and CAT or ENV policy/designation, the CAT policy or ENV policy/designation will take precedence.

b ii) **Landscape Character**

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of other relevant Local Development Plan policies. The council will consult Scottish Forestry on proposals which are considered to adversely affect forests and woodland. Development proposals must give consideration to the relationship with existing woodland and trees including shading, leaf/needle cast, branch cast, wind blow, water table impacts and commercial forestry operations.

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term. A landscaped buffer may be required where the council considers that this is required to maintain an appropriate long term relationship between proposed development and existing trees and woodland.

Where it is technically unfeasible to retain trees, compensatory planting on a one for one basis must be provided in accordance with (e) below.

c) Control of Woodland Removal

In support of the Scottish Government's Control of Woodland Removal Policy, Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified as Ancient Woodland will not be supported.

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where it is proposed to remove woodland, compensatory planting at least equal to the area to be felled must be provided in accordance with e) below.

d) Tree Preservation Orders and Conservation Areas

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

Within Conservation Areas, the council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO must be replaced, unless otherwise agreed by the council.

e) Compensatory Planting

Where trees or woodland are removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace.

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland Removal policy, woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Where woodland is to be removed then the Council will require compensatory planting to be provided on site, on another site in Moray within the applicant's control or through a commuted payment to the Council towards woodland and greenspace creation and enhancement. Developers proposing compensatory planting are asked to follow the guidance for site assessment and woodland design as laid out in Scottish Forestry's "Woodland Creation, Application Guidance" and its subsequent updates, when preparing their proposal.

The Council requires a Tree Survey and Tree Protection Plan to be submitted by the applicant with any planning application for detailed permission on designated or windfall

sites which have trees on them. The survey should include a schedule of trees and/or groups of trees and a plan showing their location, along with the following details;

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.
- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

Based on the guidance in BS5837, only category U trees are discounted from the Tree Survey and Tree Protection Plan process. Trees in category A and B must be retained, with category C trees retained as far as practicable and appropriate. Trees proposed for removal should be replaced with appropriate planting in a landscape plan which should accompany the application. Trees to be retained will likely be set out in planning conditions, if not already covered by a Tree Preservation Order.

If a tree with habitat value is removed, then measures for habitat reinstatement must be included in the landscape plan. It is noted that in line with part b) of policy EP7 where woodland is removed compensatory planting must be provided regardless of tree categorisation."

A Tree Protection Plan (TPP) must also be submitted with planning applications, comprising a plan and schedule showing;

- Proposed design/ layout of final development, including accesses and services.
- Trees to be retained- with those requiring remedial work indicated.
- Trees to be removed.
- Location (and specification) of protective fencing around those trees to be retained based on the Root Protection Area.

The TPP should show how the tree survey information has informed the design/ layout explaining the reasoning for any removal of trees.

Landscape Scheme

Where appropriate a landscape scheme must be submitted with planning applications, clearly setting out details of what species of trees, shrubs and grass are proposed, where,

what standard and when planting will take place. Landscape schemes must aim to deliver multiple benefits in terms of biodiversity, amenity, drainage and recreation as set out in policy.

The scheme should also set out the maintenance plan. Applicants/ developers will be required to replace any trees, shrubs or hedges on the site which die, or are dying, severely damaged or diseased which will be specified in planning conditions.

Tree species native to Scotland are recommended for planting in new development - Alder, Aspen, Birch, Bird Cherry, Blackthorn, Crab Apple, Elm, Gean, Hawthorn, Hazel, Holly, Juniper, Sessile Oak, Rowan, Scots Pine, Whitebeam, Willow.

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

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

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

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

EP11 BATTLEFIELDS, GARDENS AND DESIGNED LANDSCAPES

Development proposals which adversely affect nationally designated Battlefields or Gardens and Designed Landscapes or their setting will be refused unless;

- a) The overall character and reasons for the designation will not be compromised, or
- b) Any significant adverse effects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits.

The Council will consult Historic Environment Scotland and the Regional Archaeologist on any proposals which may affect Inventory Sites.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

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

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

- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
- Employment related accommodation e.g. caretakers or operational staff.

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available→→;

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

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

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

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

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

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

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD)– water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

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

c) Hazardous sites

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

EP15 MOD SAFEGUARDING

Development proposals must not adversely impact upon Ministry of Defence safeguarding operations. Details of consultation zones for Kinloss Barracks and RAF Lossiemouth and development types which will be subject to consultation with the Defence Infrastructure Organisation are available from Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

EP16 GEODIVERSITY AND SOIL RESOURCES

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Applications should minimise this release and must be accompanied by an assessment of the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

Where areas of important geological interest are present, such as geological Sites of Special Scientific Interest (SSSI) or Geological Conservation Review (GCR) sites are present, excavations or built development can damage, destroy and/or prevent access to the irreplaceable geological features. Development should avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded.

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

Major developments, minerals and large scale renewable energy proposals on areas of peat and/or land habitat will only be permitted for these uses where:

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

Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, movement, degradation or erosion of peat is avoided and proposes suitable mitigation measures and appropriate reuse. Commercial peat extraction will not be permitted.

WARD 04_17

22/01269/APP
12 September 2022

Erect storage warehouses and ancillary development (amenity block sprinkler tank and pump house) land engineering (cut and fill),realignment of Core Burn and associated engineering and infrastructure works including access and sub-station on Land To The South Of Crisp Maltings Portgordon Buckie Moray for William Grant & Sons Distillers Ltd

Comments:

- A site visit will have been carried out.
- The application is for a site with an area of 2 or more hectares.
- Advertised for neighbour notification purposes – notification not possible because no premises are situated on land to which notification can be sent.
- 6 representations have been received.

Procedure:

- None.

Recommendation

Grant Planning Permission – Subject to the following:

Conditions/Reasons

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

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

2. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to an agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - a) duration of works;
 - b) construction programme;

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

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

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

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

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

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

5. No development shall commence until:
- a) a visibility splay 4.5 metres by 215 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and
 - b) Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.
 - c) Additionally a forward visibility splay of 215m is required to maintain at the site entrance for the vehicles waiting on the main road to turn right into the site access. These vehicles must be able to see oncoming traffic and be seen by following traffic.

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

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

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

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

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

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

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

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

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

9. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

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

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

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

11. The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

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

12. Unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Environmental Health Manager, external operations or vehicle movements relating to the operation of the warehouses shall only take place between 08.00 and 19.00 hours, Monday to Friday and 8am and 1pm, on Saturdays, and no external operations or vehicle movements shall take place on bank/public holidays.

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

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

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

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

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

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

15. Prior to development commencing details of the proposed foul sewerage system shall be submitted to and agreed in writing with the planning authority in consultation with the flood risk management team. Thereafter the agreed foul drainage system shall be installed in accordance with the agreed details, prior to the first use of the site.

Reason: To ensure the installation of an acceptable private foul drainage system.

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

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

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

17. The surface water drainage arrangements for the development shall be provided and maintained in accordance with the approved Drainage Impact Assessment G:\C&S\EC22743\reports\R001 Drainage Impact Assessment Rev B.docx, dated 29/11/22, prepared by Blyth and Blyth, unless otherwise agreed by the Council, as Planning Authority. These shall be installed and operational prior to the first use of the buildings hereby approved.

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

18. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting that order) the approval hereby granted only relates to the use of the 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.

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

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

20. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

21. Prior to development commencing a detailed phasing landscape plan (including timescales), landscape maintenance and woodland management plan shall be submitted to and agreed in writing with the planning authority. Thereafter the approved landscaping/woodland shall be implemented and maintained in accordance with the agreed details.

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

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

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

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

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

Reason(s) for Decision

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

The erection of buildings for whisky storage in this location is considered acceptable and would not have an adverse impact on the surrounding area. The proposal complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

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

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

THE TRANSPORTATION MANAGER has commented that:-

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

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

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

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

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

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

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

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

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

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

Additional information

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

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

- SEPA is aware of the existing Grissan lower tier COMAH establishment located nearby at the Portgordon Maltings, Buckie, Moray, AB56 5BU and the associated Hazardous Substance Consent application 22/01401/HAZ which is under determination. We recommend you ascertain whether the proposed development lies within a consultation distance set by HSE around a major hazard site and if it does, understand whether or how this could affect your layout. Perhaps this consultation has already been undertaken but we felt it best to bring this point to your attention.
- As the Regulations will apply, the Applicant must notify the COMAH Competent Authority (HSE and SEPA) within a reasonable period of time (normally taken to be between 3 and 6 months) prior to construction of the proposed development. At that time, the anticipated COMAH status of the site as a lower or upper tier establishment should be confirmed by providing a comparison of the proposed quantity of flammable substances to be stored against the qualifying thresholds described in Schedule 1 of the Regulations.
- Details of how to make a COMAH notification are available on the HSE website.
- Following notification, SEPA will expect the Applicant to submit an assessment of the environmental risks, demonstrating that 'All Measures Necessary' have been undertaken in relation to the potential for 'Major Accidents to the Environment'. The latest version of the guidance for undertaking such an assessment can be found on SEPA's website. The assessment submitted will need to include details of the procedural, design, and modelling arrangements proposed to address environmental risk and mitigate the potential impacts of a major accident to the environment. If the site is identified as upper tier under the COMAH Regulations then the environmental risk assessment will need to be submitted as part of a Safety Report for the establishment.
- It is noted & welcomed that the proposed drainage system includes provisions for firewater containment. SEPA intend to contact the drainage consultants Blyth and Blyth directly to clarify certain points surrounding these proposals.
- The applicant should contact the local authority to discuss the need for a Hazardous Substances Consent. SEPA & HSE would expect to be consulted on any such application which is made.

SCOTTISH GAS NETWORKS have commented that:-

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

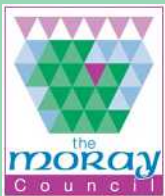
In addition, please note your requirements under HSE Document: *PADHI: HSE's Land Use Planning Methodology* (www.hse.gov.uk/landuseplanning/padhi.pdf) for any major accident hazard pipeline.

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
D01	East elevation long section 1
D02	East elevation long section 2
L01 H	Landscape mitigation plan - LVIA Figure 4 updated
EC22743:PL:014	Cell 12 warehouse - elevations and floor plan
EC22743:PL:015	16 Cell warehouse - elevations and floor plan
EC22743:PL:006	8 Cell warehouse - elevations and floor plan
EC22743:PL:010	Typical civils construction details sheet 1
EC22743:PL:011	Amenity building - elevations and floor plan
EC22743:PL:012	Sprinkler tanks and pumphouse elevations and floor plans
EC22743:PL:013	Substation - elevations and floor plan
L02 C	Planting plan
EC22743:PL:001 C	Location plan
EC22743:PL:003 E	Proposed site layout
EC22743:PL:004 D	General arrangement
EC22743:PL:005 B	Proposed site sections
EC22743:PL:009 C	Proposed drainage layout

Information to accompany decision:

Drainage Impact Assessment G:\C&S\EC22743\reports\R001 Drainage Impact Assessment Rev B.docx, dated 29/11/22, prepared by Blyth and Blyth.



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

22/01269/APP

Site Address:

**Land To The South Of Crisp Maltings
Portgordon**

Applicant Name:

William Grant & Sons Distillers Ltd

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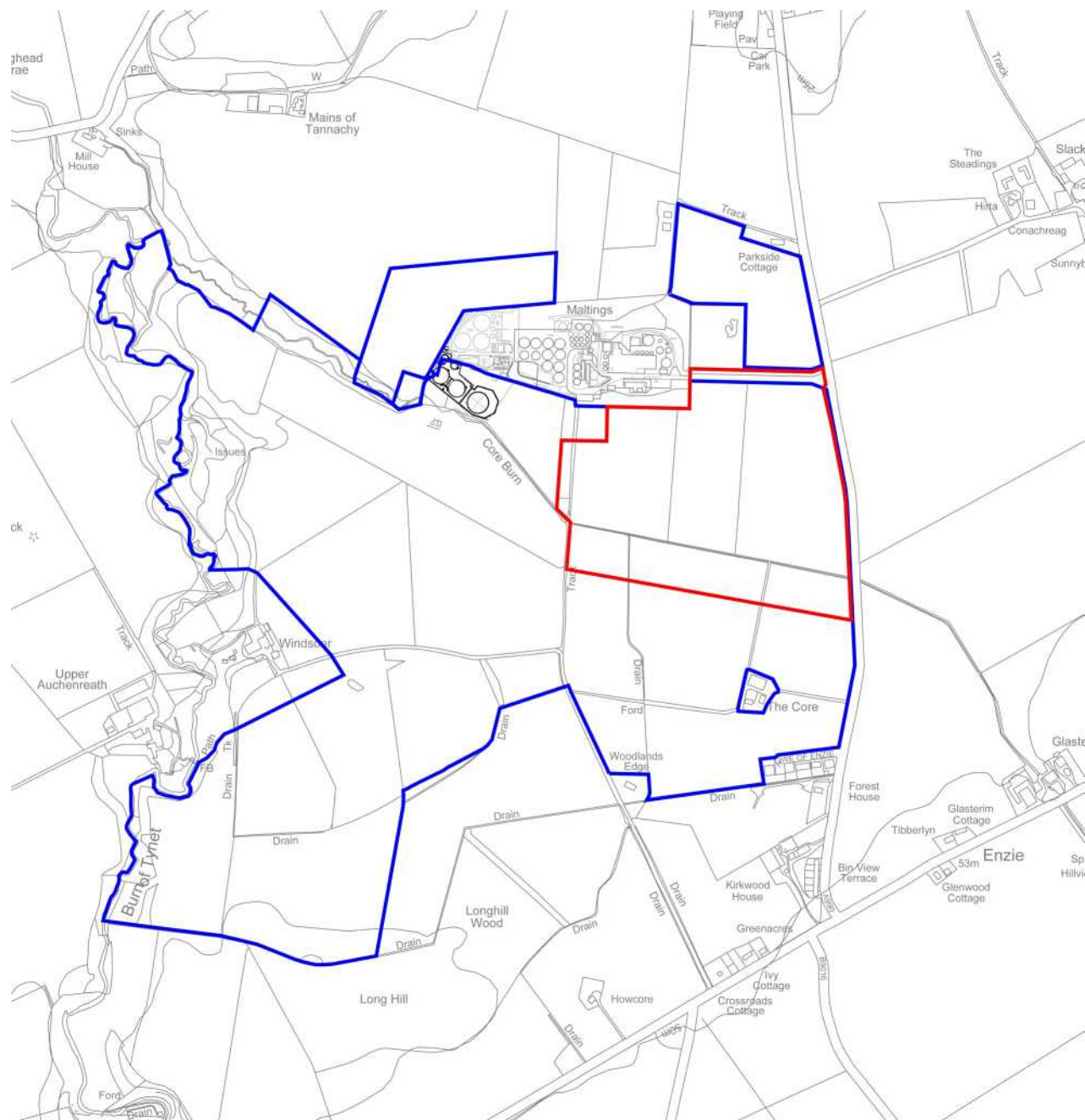
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Location Plan



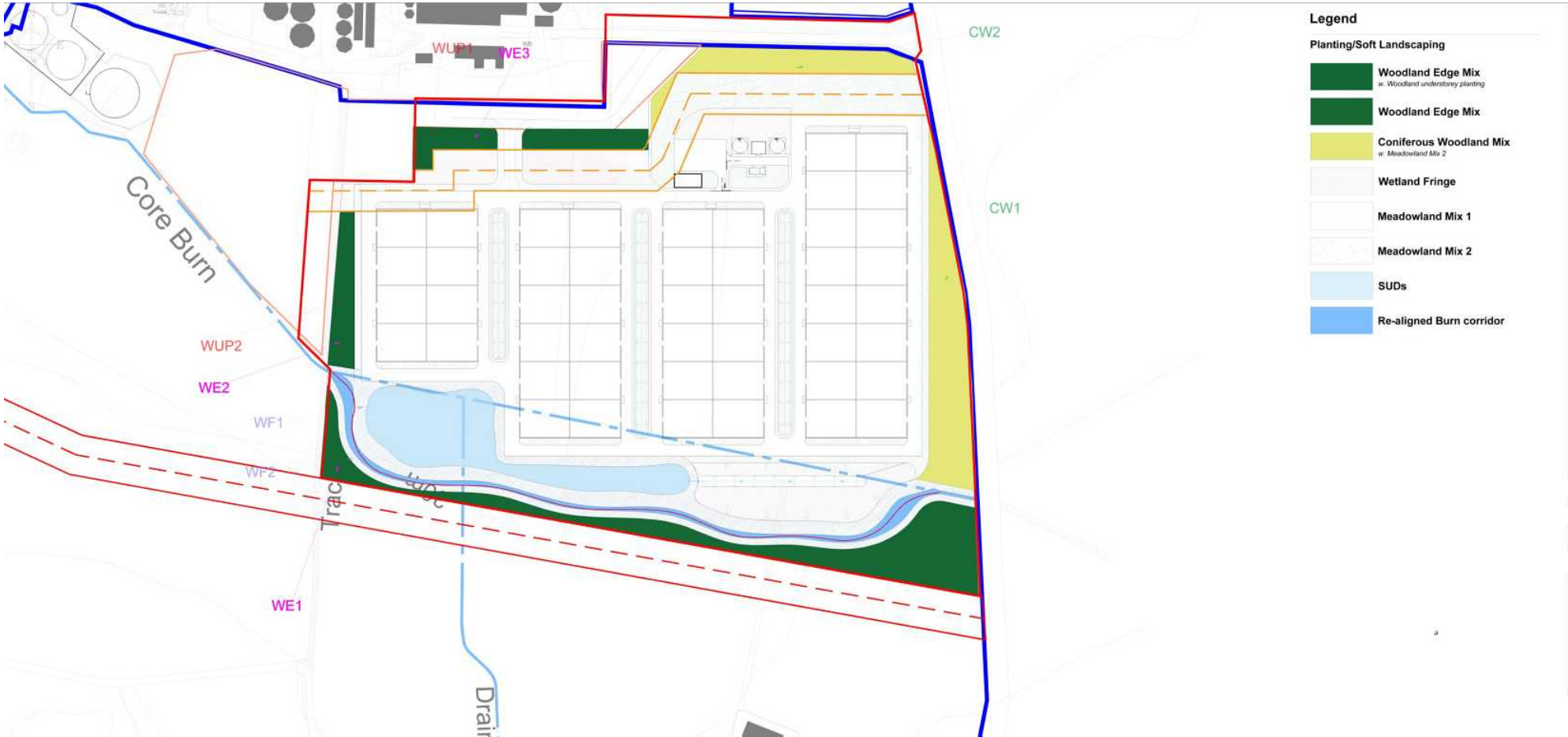
Site Location



General arrangement



Landscape plan





Portgordon Proposed Warehousing

Viewpoint 1: View north from Howe of Enzie



Portgordon Proposed Warehousing

Viewpoint 2: View south from A990 at Parkside Cottage



Portgordon Proposed Warehousing

Viewpoint 3: View north from Windsoer



Portgordon Proposed Warehousing

Viewpoint 4: View northwest from A98



Portgordon Proposed Warehousing

Viewpoint 5: View south from A990 at Portgordon

Site from South East



PLANNING APPLICATION: 22/01269/APP

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

1. THE PROPOSAL

- Planning permission is sought for the erection of 4 whisky storage warehouses, associated access, drainage, landscaping and diversion of the Core Burn.
- The site extends to 16 hectares, with the total footprint of the warehouses being 50,000sqm.
- Each warehouse is split into cells, with each individual cell measuring 37m by 28m and 13.2m in height. Each cell has a shallow pitched roof, with the walls being finished in a mixture of dark green cladding on the upper portion, with harled base walls and the roof also finished in dark green cladding. Each cell also has a roller/pedestrian door and pump house on the gable elevation. The differing size buildings will contain 8, 12 and 16 cells.
- Further elements of the proposal consist of a flat roof modular amenities building (office, kitchen, drying room & toilets) measuring 10m by 9m, by 2.6 high finished in dark green. Two sprinkler storage tanks with a 5.5m diameter and 6.5m in height and associated flat roof pump house measuring 8m by 7m by 3.3m high. A flat roof substation measuring 10m by 4.5m by 3m high.
- Access is proposed via the existing road which serves the neighbouring maltings and anaerobic digestion plants.
- The proposal also involves the realignment of the Core Burn which presently flows along a ditch to the south of the site. The applicants propose to divert this further south within the site and incorporate this within the wetland/pond also proposed to the south of the site.
- 4 hectares of the site is set aside for landscaping with a 20m wide band of coniferous trees proposed to the north of the site, a further band of coniferous trees varying in width up to 35m wide to the east of the site. A band of broadleaf planting is proposed to the west of the site, varying in width from 10m to 20m wide and supplements the existing woodland bounding the site on this side. To the south of the site lies the wetland area, which varies in width from 42m to 100m and incorporates a block of broadleaf planting varying in width from 8m to 63m wide. Between the coniferous and broadleaf woodland planting proposed, this will equate to approx. 25,000 trees planted.

2. **THE SITE**

- The site lies to the south of the Crisp Maltings at Portgordon and presently comprises agricultural land, with the Core Burn flowing within a ditch towards the south of the site.
- The site is bounded by the existing woodland and anaerobic digestion plant to the west, further open farmland with neighbouring houses beyond to the south and the A990 public road to the east.
- There are no environmental or landscape designations covering the site and the site is defined within the Local Development Plan as open countryside and is not covered by any specific designations within the plan. Approximately 4 hectares of the south eastern corner of the site is identified as being prime agricultural land (3.1 classification).
- A section of the western portion of the site is affected by both surface water flood risk and flood risk associated with the Core Burn.
- The site also contains a high pressure gas pipeline, which runs along a corridor to the north of the site.

3. **HISTORY**

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

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

4. **POLICY - SEE APPENDIX**

5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification purposes.

6. **CONSULTATIONS**

Contaminated Land – No objections.

Scottish Water – No objections.

Transportation Manager – No objection subject to conditions and informatives being attached to the consent. The conditions relate to formation of visibility splays, wear and tear agreement, a construction traffic management plan and provision of EV charging.

Archaeology – No objections, subject to condition relating to archaeological investigation and recording of any finds. Archaeological investigation is ongoing on the site at present.

SEPA – No objections subject to a condition relating to the design of the Core Burn realignment. Informative attached regarding other SEPA regulatory aspects.

Moray Flood Risk Management – No objections subject to condition relating to adherence with the submitted Drainage Impact Assessment.

Environmental Health – No objections subject to conditions relating to constructions activity, operating hours, site lighting, construction environmental management plan and operational noise limits.

Health and Safety Executive – No objections.

Scottish Gas Networks – No objection subject to informatives.

Strategic Planning & Delivery – Comments provided in relation to locational justification of the site, landscaping and visual impact.

7. **OBJECTIONS-REPRESENTATIONS**

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

6 representations have been received.

[REDACTED]

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

Headings of objection reasons selected by objectors from objection/representation from the online objection page:

- Affecting natural environment
- Contrary to Local Plan
- Drainage
- Height of proposed development
- Inappropriate materials/finishes
- Lack of landscaping

- Noise
- Over-development of site
- Poor design
- Procedures not followed correctly
- Traffic
- Road access
- Road safety
- Over-development of site
- Precedent
- Community Council/Association Consult
- View affected

The grounds for representation are summarised as follows:

Issue: Environmental Impact Assessment.

- Moray Planning have not asked for an EIA [environmental impact assessment] for the development especially as this site bounds the Coastal Special Landscape Area [SLA] which is part of the important Moray Coastal strip both important visually and environmentally as a sensitive unique coastal environment - Portgordon is home to a significant wildlife population, not only the Grey Seal colony for which human activity is the major threat.
- The scale of the storage/warehousing development will have a significant and complex adverse environmental impact. No formal Environmental Impact Analysis has been prepared and it is of concern that Moray Council has decided that this is not required on the basis of the scale of development. The wider Moray Firth has a number of national designations including Special Protection Area, Special Landscape Area, SSSI & RAMSAR and therefore the wider environmental impact and impact on local biodiversity has not been seriously considered.

Comment (PO): The Special Landscape Area designation lies to the north of Portgordon and covers the coastal fringe, it does not bound the site.

The decision reached on the EIA screening opinion followed pre application consultation with NatureScot and SEPA amongst others who did not raise any concerns regarding the potential environmental impact of the proposal. The site is remote from the Moray Firth and taking into account the nature of the proposals, will not result in any direct impact on the environmental interests of the firth. The Core Burn has already been significantly altered via human intervention.

An ecology appraisal has been submitted in support of the application which identifies that the proposal will not have any adverse impact on designated environmental sites or protected species and the wetland area should result in significant habitat enhancement for surrounding wildlife.

Issue: Visual Impact.

- Adopted Moray Planning Local Plan policy documents distinctly refer to the protected landscape in relation to uninterrupted views to the Cullen Bin from all aspects along the coast.

- Locally the visual impact of these huge warehouses is proposed with insignificant mitigation to reduce their presence in the open nature of the local landscape.
- Promoting a location close to the existing Maltings & biomass facility means that a 'tipping point' is reached that completely changes the landscape, setting and character of this approach on the A990 to Portgordon from the south.
- The scale, massing, density and volume of the four warehouse buildings of around 50,000sqm (equivalent to 7 full size football pitches) with 13m ridge heights is not in keeping with the local largely rural character, will adversely affect the local landscape and have a significant detrimental visual and environmental impact. The first visual impression on approaching Portgordon on the A990 the south will be of an industrial park. The design of the buildings is poor, very functional and does not integrate into the landscape.
- This proposed scheme is the size of an Amazon Fulfilment centre on the doorstep of a community of less than 900 residents. There is potential for a serious negative impact on community amenity, the quality of life and environment locally along with the erosion of key assets in this neighbourhood. The visual impact of these huge warehouses is proposed with insignificant mitigation to reduce their presence in the open nature of the local landscape.

Comment (PO): The visual impact and design of the proposals are considered in the observations section of this report, whereby it is concluded that whilst the proposals will be visible within the local landscape, this does not merit the refusal of the application.

As with most maturation warehousing found throughout Moray, the design of the buildings are functional, however, such buildings are an existing common feature throughout the Moray landscape and as such are not considered to incongruous with the established working character of the rural landscape. Whisky maturation warehousing is not uncommon in the wider locality with whisky warehousing present to the east at Inchgower Distillery.

Taking into account the separation between the site and the Bin of Cullen, the proposals are not considered to have any adverse impact on the setting of this local landmark.

Issue: Prime Agricultural land.

- Loss of prime quality farmland, and the impact this has on current tenants, which goes against adopted Planning and environmental policy.

Comment (PO): This issue is discussed in the observation section of this report whereby it is concluded that the loss of the Prime Agricultural Land does not merit the refusal of the application.

Issue: Road Safety.

- Increase in heavy traffic movements of commercial vehicles into the long term, the A98 is already a high incident corridor, with frequent local catastrophic accidents - the lack of infrastructure investment for this development would impact on local safety with the A990 feeder road to Portgordon and day to day amenities.

- Road infrastructure is not adequate into and out of proposed site. As you know the A98/96 can be closed on a regular basis due to the amount of accidents that occur, this would mean even more large vehicles coming through the village at speed.
- The Transport Statement underplays the negative safety impact of increase in heavy traffic movements of commercial vehicles on the B9016/A98/A990 junction, which is already a difficult junction.

Comment (PO): The applicants have confirmed that HGV traffic from the operation of the development will not be routed through Portgordon.

The Councils Transportation Manager have assessed the road infrastructure serving the site and subject to conditions as recommended, have no objection to the approval of the application. Of note, once operational and the warehouses are stocked, the number of vehicles movements will be limited.

Issue: Outfall to Moray Firth causing pollution.

Comment (PO): There is no outfall to the Moray Firth proposed as part of this development.

Issue: Future Development.

- Fear of future development on this site of over 200 hectares with an unknown agenda by the greater WM Grants ownership and associated business operations within their related holding companies.

Comment (PO): This application must be assessed on its own merits. Any application for future development will need to be assessed in accordance with the Local Development Plan policies in place at that time and taking into account any other relevant material considerations.

Issue: Lack of investment in a sustainable local employment infrastructure. We need future planning for a symbiotic relationship with communities of Fochabers, Portgordon and Buckie - to local benefit.

Comment (PO): The principles of community wealth building have been incorporated into the draft national Planning Framework 4, however, this is yet to be adopted by Scottish Ministers and as such this proposal must be considered in accordance with current Moray Development Plan policy, where community wealth building is not incorporated into policy. The proposals have been assessed in terms of development obligations however, no contributions were identified.

Issue: Loss of environmental and wildlife diversity, even though this is currently farmland - the micro diversity is lost forever, with concreting over large areas.

Comment (PO): The habitat enhancements proposed as a result of this development are considered to result in a considerable net gain over the habitat value offered by the existing farmland.

Issue: Drainage and flood risk.

- Loss of natural groundwater percolation and the fears of uncontrolled flooding due to stormwater run-off, Portgordon has previously suffered from storm floods off the open farmland.
- The impact on groundwater levels/percolation and the impact of run off from the buildings & hard standings in heavy rain brings immediate concerns about flooding due to stormwater run-off. Portgordon has

already suffered from significant storm floods including from the open farmland in 1999 & 2013.

Comment (PO): The Drainage Impact Assessment and Flood Risk Assessment submitted in support of this application identify that the proposal will not result any greater flood risk as a result of the proposals. Both SEPA and Moray Flood Risk Management have been consulted on the proposals and have no objection to the approval of the application subject to the conditions as recommended.

Issue: Design.

- These buildings are of the lowest denominator of build/investment cost, barely a 20th Century envelope let alone one suitable for the 21st C and beyond - modern day expectation is for development to 'build back better', green roofing, solar PV roofing, buried structures, highly insulated shells, rainwater/grey water harvesting, sustainable local materials, low embodied carbon build methods - and appropriate visual style to this area of small historic residential coastal settlements.

Comment (PO): The development must be assessed on the basis on which it is submitted and there is no development plan policy basis to insist that a different approach to the design of a functional warehouse.

Issue: Principle of Development.

The site selection analysis in the Planning Statement is superficial. Only two other locations are considered and an alternative option of a distributed location strategy with a number of smaller more resilient facilities has not been examined. On the basis that Scotch Whisky is very important in the national & Moray economy, Moray Council should be proactive in identifying potential locations, other than mainstream industrial sites, as part of the Local Development Plan for this kind of facility.

Comment (PO): There is no development plan policy requirement to detail other sites considered as part of planning application. The proposal must be assessed on the basis on which it is submitted. Whilst the Moray Local Development Plan does not designate specific sites for maturation warehousing, it is supportive of growing the whisky industry and has policies for the consideration of rural businesses/development. The Moray Economic Strategy does support traditional industries in Moray and the location of warehousing is often industry led, due to their wish to operational need.

8. OBSERVATIONS

8.1 Following consideration of the revised draft National Planning Framework 4 which was laid before parliament on 8th November 2022, the draft (yet to be formally adopted) is to be given no weight in the consideration of planning applications. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

8.2 Principle, Siting/Character and Design (PP2, DP1, DP5)

Policy PP2 Sustainable Economic Growth supports proposals which deliver sustainable economic growth where the natural and built environment is

safeguarded, there is clear locational need and any potential impacts can be satisfactorily mitigated.

- 8.2.1 Policy DP1 Development Principles, sets out detailed criteria to ensure development proposals satisfy siting, design and servicing requirements. This also requires submission of supporting information to inform assessment where required.
- 8.2.2 Policy DP5 Business and Industry states proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need and is of a high standard of design appropriate to the rural environment.
- 8.2.3 The applicants have submitted a planning statement in support of the proposals which details the rationale behind the selection of the proposed site. In brief this highlights that there is currently a shortage of whisky storage within Moray and that without storage facilities, production and expansion of the industry in the area will not be possible. This proposal represents a significant investment in whisky storage in the area, which will enable the expansion of a Key Growth Sector as identified within the Moray Economic Strategy. Whilst other sites were considered, the proposed site was identified as being the most suitable in that it is within Speyside, which is desirable in terms of product provenance, it is close to distilling operations i.e. within 20 miles of Dufftown and saves transport and storage of the whisky elsewhere within Scotland. The roads serving the site are of a sufficient standard to accommodate the associated HGV traffic. The site is relatively flat and avoids the need for significant regrading associated with the proposals. The development will be viewed in conjunction with the existing adjacent maltings and anaerobic digestion (AD) plant and is therefore being sited in what is already a working landscape. There are no landscape or environmental designations associated with the site. The applicants have a commercial relationship with Grissan Renewable Energy, who built and operate the adjacent AD plant, where the newest phase of the development being progressed involves the production of biomethane, whereby in time both the diesel trucks serving the AD plant and those serving the proposed maturation warehouse will be replaced by biomethane trucks. This will result in a huge carbon saving when compared to existing diesel truck movements and is an excellent example of a circular economy, whereby the waste products from the distilling industry are used to provide biomethane and the waste from the AD process is used as fertiliser to help grow crops which are used in the whisky industry and the circular cycle continues.
- 8.2.4 In addition to the above the applicants have also outlined that it would not be suitable to locate the maturation warehousing on a site designated for industrial purposes within the development plan, as it would not be possible to find a designated site large enough to accommodate the applicants needs and even if a large enough site was found given the health and safety requirements associated with maturation warehousing it would be likely that there would be a conflict of uses between the maturation warehousing and other industrial uses. Also the siting of maturation warehousing on designated industrial land would have a sterilising effect on what would otherwise be flexible industrial land capable of meeting the needs of other industrial businesses in the area.

- 8.2.5 With all of the above in mind there is considered to be ample justification to meet the locational requirements of policies PP2 and DP5.
- 8.2.6 In terms of siting, design and potential impact on the character of the area, given the scale of the proposal it will inevitably be highly visible within the local landscape. The applicants have submitted a landscape and visual appraisal in support of the general development which includes visualisations to aid the understanding of the likely visual impact of the proposals.
- 8.2.7 From a review of this landscape and visual assessment and having visited the site, as noted previously in terms of locational justification, the site is located in a part of the landscape which is already characterised by its working nature. Other maturation warehouses are present in relatively close proximity to the site (3km east at Inchgower distillery), the adjacent Crisp Maltings and neighbouring AD plant already have a strong influence on the landscape along with the industrial development in and around Buckie, which is visible across the coastal fringe. When looking at Moray as a whole there are numerous maturation warehouses located throughout the landscape and therefore whilst the proposal will be visible it will not be incongruous with the landscape.
- 8.2.8 When looking more closely at the characteristics of the site in detail, the site is relatively flat and will require minimal earthworks to accommodate the proposal again limiting the visual potential visual impact of the proposal. The visualisations and long section provided in support of the application illustrate how the site sits within a low point within the landscape and when taking into account undulations and existing woodland in the wider landscape the visual impact of the proposals will be localised. The visual impact of the scheme will be mitigated further by the dark green colouration of the buildings and the woodland planting proposed around the site. Whilst it is accepted that this woodland will take time to become effective, it will help soften the impact of the proposal in the medium term.
- 8.2.9 In terms of impact of the nearest residential properties, there is considered to be sufficient separation between the proposal and these properties to ensure the development does not result in an overbearing impact and whilst the views from these properties may be affected, in planning terms, the right to a view is not a material planning consideration and therefore cannot be taken into account in determining this proposal.
- 8.2.10 Overall whilst the proposal will inevitably result in visual impact, taking all of the above factors into account, the site is considered to be well located to accommodate such a large development and balances the need to provide maturation storage facilities within Moray to enable the growth of the whisky industry with the need to protect the established character of the countryside in which the proposal is sited.
- 8.3 **Drainage and Flooding (DP1, PP3, EP12 & EP13)**
Policies DP1 Development Principles, PP3 Infrastructure and Services and EP12 Management and Enhancement of the Water Environment set out detailed criteria to ensure proposals meet siting, design and servicing requirements including provision of SuDS. This includes requirements for surface water from new development to be dealt with in a sustainable manner

that has a neutral effect on the risk of flooding or which reduces the risk of flooding.

- 8.3.1 A Drainage Impact Assessment and Flood Risk Assessment has been submitted with the application which details the proposed surface drainage arrangements for the proposed development. Two large SUDs basins are proposed to the south west of the site and have been incorporated into a larger landscaped area. The SUDs basins will be edged with a wetland fringe planting scheme which will then be bounded by meadow or woodland planting. In this case the applicant propose to realign the Core Burn as part of the proposals. The natural path of the Core Burn has been altered for many years, where historically the Burn has been ditched and its natural course lost. With this in mind the realignment and integration of the burn as part of the proposed wetland area is encouraged and will result in a net enhancement of the natural habitat value across this site.
- 8.3.2 Following consultation with Scottish Water it has been identified that there are no foul sewers in the vicinity of the site and therefore the applicants have outlined within the drainage statement that a biodisc treatment plant will be incorporated into the site along with appropriate discharge to a soakaway. A condition has been recommended to agree the full details of this system prior to development commencing.
- 8.3.3 Both SEPA and Moray Flood Risk Management have been consulted on the proposals and have no objection to the approval of the application subject to the conditions as recommended. With this in mind the proposals are considered compliant with policies DP1, PP3, EP12 and EP13.
- 8.4 **Biodiversity and Prime Agricultural Land (EP2 and DP1)**
Policy EP2 requires development proposals to, where possible, retain, protect and enhance all biological interest and provide for their appropriate management. This also states that proposals for 1000sqm or more of commercial floorspace must create new or where appropriate enhance natural habitats of ecological value.
- 8.4.1 Given the current use of the site for agricultural purposes it presently has limited habitat and biodiversity value and this is reflected within the findings of the ecology survey submitted in support of the application. As outlined within the previous drainage section, the applicants propose to create a wetland area, integrating the Core Burn and incorporating a pond. Approximately 4 hectares of the 16 hectare site have been given over to landscaping with around 25,000 trees being proposed as part of the landscape scheme. The landscape scheme also incorporates, wetland planting and two separate types of meadowland mix planting to enhance variety and habitat value across the site. The creation of the pond to the south of the site also opens up an excellent opportunity to incorporate bat and bird boxes on the warehouse buildings, providing an ideal foraging habitat and the applicants have incorporated this into the scheme.
- 8.4.2 Taking the above into account the proposals are compliant with policy EP2.

- 8.4.3 In terms of impact on Prime Agricultural Land, policy DP1 outlines that the proposals must avoid sterilising significant workable reserves of Prime Agricultural Land. In this case the proposals involve the loss of approx. 4 hectares of 3.1 classification Prime Agricultural Land, within the south east corner of the site. No definition of “significant” is provided within the development plan, however, it is questionable as to whether the loss of 4 hectares of Prime Agricultural Land is significant when it lies within a wider area of prime agricultural land extending to over 830 hectares. In addition, to insist that no development takes place within this corner of the site, would result in a corner of a field bounded by the public road to the east and split in two by the Core Burn with the remainder of the field being developed and as such this remaining corner would not be considered to constitute significant workable reserves of Prime Agricultural Land. Whilst the loss of any Prime Agricultural Land is undesirable, in this instance the losses associated with the proposals are not considered to outweigh the benefits of this proposal.
- 8.5 **Access and Parking (DP1 and PP3)**
Policy DP1 requires that proposals must provide a safe entry and exit from the development and conform with the Council’s current policy on Parking Standards. Policy PP3 requires development to be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.
- 8.5.1 A Transport Statement has been submitted in support of the proposals and the Transportation Section has been consulted and has raised no objection to the grant of permission subject to conditions relating to the formation of visibility splays, a wear and tear agreement, a Construction Traffic Management Plan and provision of EV charging.
- 8.5.2 In terms of access and parking, subject to the conditions as recommended, the proposal complies with policy DP1 and PP3.
- 8.6 **Pollution (Noise & light) (EP14)**
The Environmental Health Manager has assessed this information and has raised no objection to the grant of permission subject to conditions controlling operating hours, lighting, noise levels, construction work hours and submission of a Construction Environmental Management Plan to control/manage environmental emissions (noise, vibration, dust and artificial lighting) during the construction phase.
- 8.6.1 Subject to the compliance with above conditions the proposal would accord with policy EP14.
- 8.7 **Developer Obligations (PP3)**
The development has been the subject of a developer obligations assessment in accordance with policy PP3, however, in this instance no developer obligations have been identified.
- 8.8 **Archaeology (EP8)**
A Written Scheme of Investigation has been submitted in support of this application and the Regional Archaeologist has no objection to the approval of the application subject to archaeological investigation of the site prior to

development commencing. The applicants have elected to proceed with this on site investigation prior to this application being determined and this is why the northern portion of the site has the top soil removed at present.

Conclusion

Whilst it is recognised, that the proposed development will be highly visible within the local landscape, the development represents a significant investment in whisky storage in the area, which will enable the expansion of a Key Growth Sector as identified within the Moray Economic Strategy. The location of this storage within Moray has the potential to reduce the transportation miles of whisky casks significantly, when compared to the potential storage of casks in central Scotland and this coupled with the siting of the proposal adjacent to the approved biomethane fuelling station will enable the applicants to convert to the use of biomethane HGV's, overall resulting in very significant carbon savings. The incorporation of 4 hectares of landscaped areas, including the wetland area and woodlands, resulting in the planting of 25,000 trees, will result in a net habitat value gain when compared to the present use of the site for farmland. Taking these factors into account the benefits of the proposal are considered to outweigh any visual impact and as such the application is recommended for approval.

REASON(S) FOR DECISION

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

The erection of buildings for whisky storage in this location is considered acceptable and would not have an adverse impact on the surrounding area. The proposal complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi- functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.

- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.

- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP5 BUSINESS & INDUSTRY

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

- b) Business Parks**

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

- c) Industrial Estates**

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

- d) Existing Business Areas**

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

- e) Other Uses**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the

supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

g) Rural Businesses and Farm Diversification

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

h) Inward Investment Sites

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m2 or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of other relevant Local Development Plan policies. The council will consult Scottish Forestry on proposals which are considered to adversely affect forests and woodland. Development proposals must give consideration to the relationship with existing woodland and trees including shading, leaf/needle cast, branch cast, wind blow, water table impacts and commercial forestry operations.

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term. A landscaped buffer may be required where the council considers that this is required to maintain an appropriate long term relationship between proposed development and existing trees and woodland.

Where it is technically unfeasible to retain trees, compensatory planting on a one for one basis must be provided in accordance with (e) below.

c) Control of Woodland Removal

In support of the Scottish Government's Control of Woodland Removal Policy, Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified as Ancient Woodland will not be supported.

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable

adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where it is proposed to remove woodland, compensatory planting at least equal to the area to be felled must be provided in accordance with e) below.

d) Tree Preservation Orders and Conservation Areas

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

Within Conservation Areas, the council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO must be replaced, unless otherwise agreed by the council.

e) Compensatory Planting

Where trees or woodland are removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace.

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland Removal policy, woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Where woodland is to be removed then the Council will require compensatory planting to be provided on site, on another site in Moray within the applicant's control or through a commuted payment to the Council towards woodland and greenspace creation and enhancement. Developers proposing compensatory planting are asked to follow the guidance for site assessment and woodland design as laid out in Scottish Forestry's "Woodland Creation, Application Guidance" and its subsequent updates, when preparing their proposal.

The Council requires a Tree Survey and Tree Protection Plan to be submitted by the applicant with any planning application for detailed permission on designated or windfall sites which have trees on them. The survey should include a schedule of trees and/or groups of trees and a plan showing their location, along with the following details;

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.

- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

Based on the guidance in BS5837, only category U trees are discounted from the Tree Survey and Tree Protection Plan process. Trees in category A and B must be retained, with category C trees retained as far as practicable and appropriate. Trees proposed for removal should be replaced with appropriate planting in a landscape plan which should accompany the application. Trees to be retained will likely be set out in planning conditions, if not already covered by a Tree Preservation Order.

If a tree with habitat value is removed, then measures for habitat reinstatement must be included in the landscape plan. It is noted that in line with part b) of policy EP7 where woodland is removed compensatory planting must be provided regardless of tree categorisation."

A Tree Protection Plan (TPP) must also be submitted with planning applications, comprising a plan and schedule showing;

- Proposed design/ layout of final development, including accesses and services.
- Trees to be retained- with those requiring remedial work indicated.
- Trees to be removed.
- Location (and specification) of protective fencing around those trees to be retained based on the Root Protection Area.

The TPP should show how the tree survey information has informed the design/ layout explaining the reasoning for any removal of trees.

Landscape Scheme

Where appropriate a landscape scheme must be submitted with planning applications, clearly setting out details of what species of trees, shrubs and grass are proposed, where, what standard and when planting will take place. Landscape schemes must aim to deliver multiple benefits in terms of biodiversity, amenity, drainage and recreation as set out in policy.

The scheme should also set out the maintenance plan. Applicants/ developers will be required to replace any trees, shrubs or hedges on the site which die, or are dying, severely damaged or diseased which will be specified in planning conditions.

Tree species native to Scotland are recommended for planting in new development - Alder, Aspen, Birch, Bird Cherry, Blackthorn, Crab Apple, Elm, Gean, Hawthorn, Hazel, Holly, Juniper, Sessile Oak, Rowan, Scots Pine, Whitebeam, Willow.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

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

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

standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.

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

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available—;

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

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

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

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

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of

SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD) water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 20 DECEMBER 2022

SUBJECT: DEVELOPMENT PLAN SCHEME 2023- MORAY LOCAL DEVELOPMENT PLAN 2027

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider the current timetable for the preparation of the new Local Development Plan (LDP) 2027 and to agree that the Development Plan Scheme (DPS) and Participation Statement is submitted to the Scottish Government.
- 1.2 This report is submitted to Committee in terms of Section III E (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee agree the DPS and Participation Statement for 2023, as set out in Appendices 1 and 2 and that the Scheme is submitted to the Scottish Government.**

3. BACKGROUND

- 3.1 Planning authorities have a statutory requirement to set out a timetable for the review/production of their LDP in the form of a DPS and to submit this annually to the Scottish Government.
- 3.2 The Planning (Scotland) Act 2019 introduces changes to the LDP preparation process. The most significant changes include;
 - The need to produce an Evidence Report rather than a Main Issues Report. This is to ensure that sufficient evidence is in place to justify the spatial strategy in the LDP and to justify any local policy positions.
 - The introduction of a Gate check to consider areas of dispute in the Evidence Report. This is intended to help streamline the later Examination

process by agreeing key aspects such as housing land requirements at an earlier stage.

- Regional minimum housing land requirements being set by the Scottish Government.
- The LDP will be place based, with National Planning Framework 4 (NPF4) setting national policies which will form part of the LDP and an expectation that only limited “local” policies will be included in the LDP, where the need is evidenced. NPF4 policies will have greater weight in decision making until any new local policies are adopted.
- The need to produce a Regional Spatial Strategy (RSS) either individually or collectively with adjacent authorities. The RSS and LDP will together form the long-term spatial plan to manage change.
- The need to invite and consider Local Place Plans.
- A greater focus on engagement and delivery.

3.3 Draft NPF4 and the draft LDP Regulations were reported to a meeting of this Committee on 1 March 2022 (para 9 of minute refers). The revised draft version of NPF4 was laid before Scottish Parliament on 8th November 2022 for approval. As soon as practicable after the NPF has been adopted, the Scottish Ministers are to publish it. When the NPF4 is published it triggers changes to the meaning of the development plan and commences section 13 of the Planning (Scotland) Act 2019. This will amend section 24 “Meaning of the development plan” of the 1997 Act, which will bring NPF4 in to be part of the development plan. That section is also the part that will set out that “in the event of any incompatibility between a provision of the NPF and a provision of a local development plan, whichever of them is the later in date is to prevail.

3.4 Following approval of NPF4, the Scottish Government will consider and approve the final version of the Development Plan Regulations which means that the DPS has been prepared with a degree of uncertainty as to the final content of the Regulations.

3.5 The target date for adopting new LDP’s is 5 years from the date of adoption of NPF4. The key milestones for preparing LDP2027 are;

- Development Plan Scheme and Participation Statement published December 2022
- Call for Ideas, invitation to prepare Local Place Plans and setting up self-build register January 2023
- Regional Spatial Strategy February 2023 to November 2023
- Evidence Report to Council March 2024
- Gatecheck procedure April 2024- December 2024
- Proposed Plan to Council December 2025
- Examination process May 2026- March 2027
- Adoption of new Plan September 2027

3.6 The LDP process involves extensive community and stakeholder participation throughout, moving from informal evidence gathering and support for LPP to more formal consultation, awareness raising and neighbour notification at Proposed Plan stage.

- 3.7 The timescales for the Gatecheck and Examination processes are difficult to predict as they are largely outwith the Council's control and managed by an independent person appointed by Scottish Ministers. However, the Council can ensure that these are carried out as timeously as possible by ensuring the Evidence Report and Examination casework are thoroughly researched, evidenced and presented.

4. PROPOSALS

- 4.1 The DPS for 2023 is set out in **Appendix 1** and is intended to be a project management tool.
- 4.2 The DPS identifies other workstreams required to inform the Evidence Report, the lead service/section, where there is a cost involved beyond staffing and when external consultancy will be required.
- 4.3 The Participation Statement in **Appendix 2** sets out who, when, where and how engagement will take place, including how members will be involved. A range of engagement tools will be used at different events to engage with as wide an audience as possible across the Moray LDP area.
- 4.4 There are a number of workstreams already underway with the proposed formal review process beginning in January 2023. Work already underway includes;
- Housing Need and Demand Assessment- led by Housing service
 - Woodland Strategy- procurement process underway
 - Business Needs Survey- procurement process underway
 - Brownfield sites review- reported to Planning and Regulatory Services Committee October 2022
 - Tree Preservation Order review- reported to this meeting
 - Town Centre Improvement Plans- reported to Planning and Regulatory Services Committee October 2022
 - Site survey work- ongoing
 - Evidence report structure- ongoing
 - Retail Study- complete
 - Urban capacity studies- underway

5. SUMMARY OF IMPLICATIONS

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

The LDP is a vital aspect of supporting and facilitating the Council's priority for economic growth. The Plan also aims to deliver other key objectives including the delivery of affordable housing, provision of land for employment purposes and conservation and enhancement of our high quality natural and historic environment.

The annual DPS monitors progress of the Plan and is submitted to the Scottish Government to ensure Moray has an up to date LDP, which is a key performance indicator in the Planning Performance Framework (PPF) and a statutory requirement.

(b) Policy and Legal

Preparation of the LDP, RSS and DPS is a statutory responsibility in the Council's role as Planning Authority. Preparation must follow statutory procedures.

(c) Financial implications

A budget pressure was highlighted in the report to this Committee on 23rd March 2021 (para 13 of minute refers) for critical transportation appraisals of £200,000 in the 2022/23 financial year and £50,000 in the 2023/24 financial year. These transportation studies are essential to support the LDP, meet the requirements of Transport Scotland and identify mitigation measures, which form the basis for transportation related developer obligations. Transport budgets will not be spent this year due to delays in finalising and adopting NPF4 which has resulted in many planning authorities delaying LDP reviews.

Transport budgets will therefore commence in 2023/24 financial year and continue into 2024/25 and 2025/26, likely to be split £100,000, £100,000 and £50,000. Once Transport Scotland guidance has been updated the proportions over the financial years may change.

Other costs required to inform and develop the LDP will be met from the LDP annual revenue budget.

It is unknown if the cost of the Gatecheck process is to be met by local authorities. The cost of the Examination process will result in a budget pressure in 2026/27.

(d) Risk Implications

A project risk register has been prepared. Key risks identified are set out below which all raise risks of delays to the LDP process or risk of not delivering the proposals within the Plan;

- Insufficient evidence collated and included within the Evidence Report- risk of delay, Reporter requests additional information and/ or re-write Evidence Report
- Inclusion of evidence indicating a local policy pathway at odds with national policy- risk of delay if local policy approach contrary to NPF4.
- Staff resources- risks associated with other competing workloads and risks associated with losing experienced members of staff which would add delay, not only within Strategic Planning and Development but other services
- Uncertainty over procedures until the new LDP regulations are adopted

- Failing to meet the governments aspirations for wide engagement in the process
- Risk of not resourcing services to deliver the plan and meet the aspirations for planners to be enablers of change

The proposed approach and timelines set out in the DPS endeavours to mitigate these risks, where possible.

(e) Staffing Implications

Preparing the LDP is a statutory requirement and will therefore be a priority for the Strategic Planning and Development section over the next few years. At key peaks in workload this can have an impact upon other workload commitments. The new Plan will have a strong focus on climate change and the climate change officers within Strategic Planning and Development will be involved in the Evidence Report, Regional Spatial Strategy, interpretation of NPF4 and development of the Proposed Plan.

Preparation of the LDP and its subsequent delivery involves other services, particularly Transportation, Housing, Education, Estates, Legal, Consultancy and Development Management, which impacts upon workloads and performance within these services.

(f) Property

None at this stage.

(g) Equalities/Socio Economic Impact

None.

(h) Climate Change and Biodiversity Implications

The new planning system will include national and local planning policies aimed at reducing carbon emissions and addressing our nature crisis as well as concepts such as 20 minute neighbourhoods which will be key drivers in delivering change. The DPS subject of this report is a project management tool, setting out key milestones for the preparation of the next LDP and is not considered to have any direct carbon or biodiversity impacts.

As referenced in the staffing implications above, climate change officers will be involved in the LDP process.

A full Carbon and Biodiversity Assessment will be undertaken at Evidence Report stage.

(i) Consultations

Consultation has taken place with the Depute Chief Executive Economy, Environment and Finance, the Head of Economic Growth and Development, the Head of Education Resources and Communities, the

Legal Services Manager, the acting Housing Strategy and Development Manager, the Senior Engineer Transportation, the Equal Opportunities Officer, the Principal Climate Change Officer, the Development Management and Building Standards Manager and Deborah O'Shea (Principal Accountant) and their comments incorporated into the report.

5. CONCLUSION

- 5.1 Planning authorities are required to annually review their DPS which sets out the timetable for the review/replacement of the LDP.**
- 5.2 The DPS 2023 sets out the timetable for the preparation of the next LDP and the Participation Statement sets out details of how the Council will engage throughout the process.**

Author of Report: Gary Templeton
Strategic Planning and Development Manager
and Emma Gordon, Planning Officer

Background Papers:
Ref:

PLANNING AND DEVELOPMENT SERVICES DEVELOPMENT PLAN SCHEME

DECEMBER 2022



moray
council



INTRODUCTION

The Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006), the Town and Country Planning (Development Planning) Regulations 2008, and the Planning (Scotland) Act 2019 require planning authorities to prepare a Development Plan Scheme each year.

The Development Plan Scheme sets out the timelines for preparing the new Local Development Plan 2027, updates on planning guidance and masterplanning and includes a Participation Statement which sets out who, when and how we will consult with stakeholders.

The Scheme is reviewed annually. The process for preparing local development plans in Scotland is changing and will be informed by the final version of National Planning Framework 4 and new Development Planning Regulations which

are anticipated to be adopted by the Scottish Government by the end of 2022 and early 2023 respectively. Key changes included within the Planning (Scotland) Act 2019 include the replacement of the Main Issues Report stage with a new Evidence Report and Gatecheck procedure aiming to streamline the Examination process and ensure an evidence led approach is taken in preparing the Proposed Plan.

The timelines will be reviewed and updated as work progresses on the various workstreams to support the existing LDP and to prepare the new LDP. Preparing the new Plan will involve extensive stakeholder and community engagement and the Planning (Scotland) Act 2019 requires engagement with specific stakeholder groups such as young people. The Participation Statement is included as an Appendix to this Scheme.



Moray Local Development Plan 2020

The MLDP2020 was adopted on 27th July 2020. A number of Masterplans, Supplementary Guidance and additional planning guidance have been produced to support the Plan and these can be viewed at http://www.moray.gov.uk/moray_standard/page_133431.html

The following work will be progressed over the next 12 months to support the LDP2020 and inform the new LDP2027.

Additional Planning Policy Guidance	Q4 2022
NPF4 policy guidance / interpretation	Q1/2 2023
Mosstodloch Masterplan approved	Q3 2023
Findrassie Masterplan approved	Q3 2023
Landscape Sensitivity Study approved	Q3 2023
Lochyhill Masterplan	to be determined
Developer Obligations Supplementary Guidance updated	Q4 2023
Woodland Strategy	Q3 2023

Moray Local Development Plan 2027

The diagram below summarises the key timelines in preparing the new LDP27 which will replace the current LDP2020.

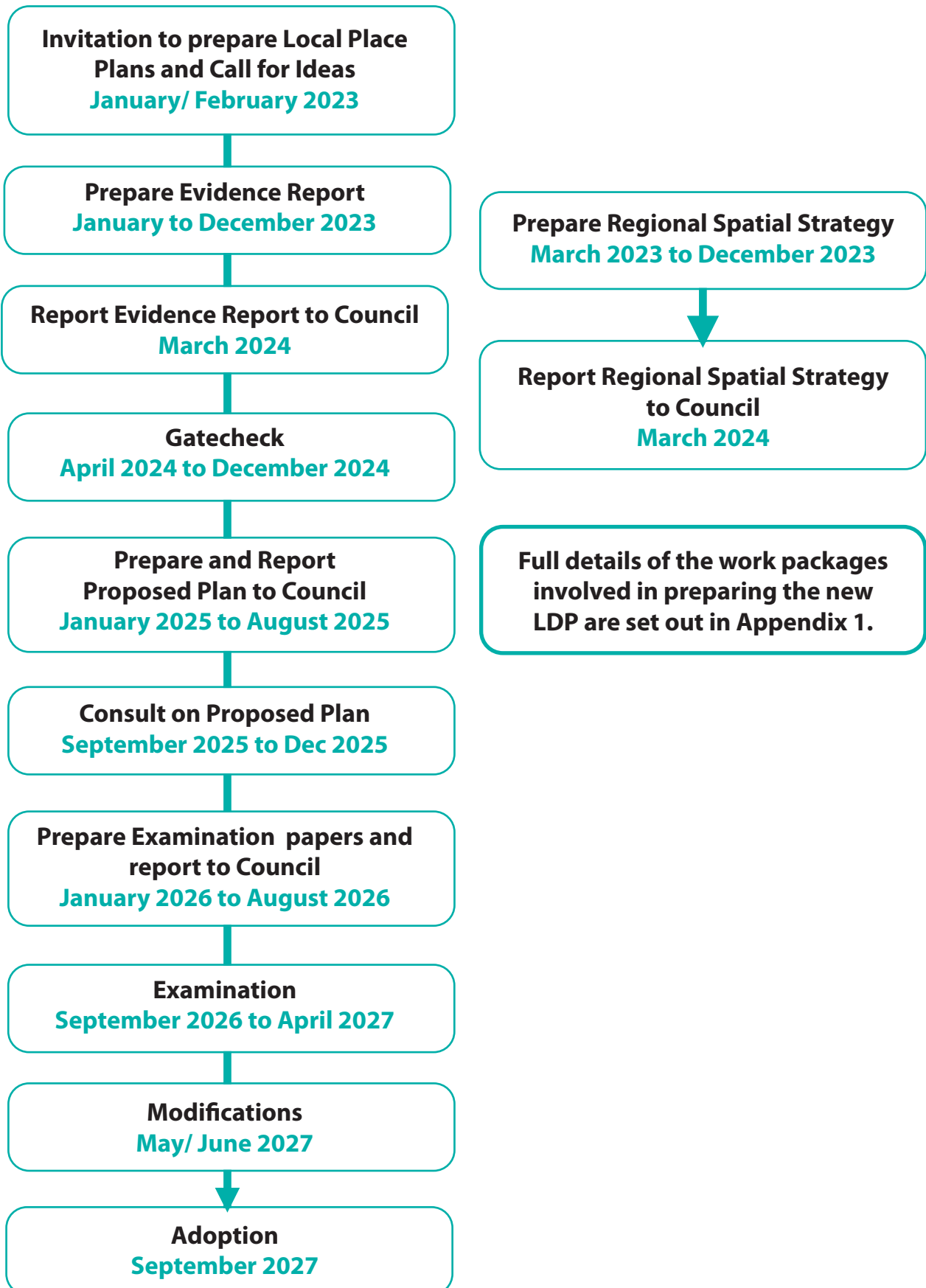
As with many planning authorities in Scotland, the early stages of the plan process were delayed due to uncertainties around the final content and timescale for implementation of the Planning (Scotland) Act 2019 which received royal assent in summer 2019.

In October 2020 the Scottish Government issued draft transitional arrangements which were further revised and indicated that if the Proposed LDP is not published by June 2022 then the new procedures would come into effect and the Plan preparation process would have to start again from the beginning.

Under the new requirements, the Scottish Government has confirmed that the target is to have new LDP's in place within 5 years of NPF4 being adopted. The timelines below reflect that target.



Key timelines in preparing the new LDP27



Participation Statement

The Council is committed to encouraging participation from as wide a range of stakeholders as possible in all Local Development Plan related activities, such as masterplans, development briefs and other guidance published throughout the lifetime of the Plan. This Participation Statement outlines how communities and stakeholders will be engaged and have the opportunity to engage, shape and inform the Local Development Plan and associated documents, in line with National Standards for Community Engagement.

The Council aims to ensure that;

- All engagement events are inclusive, open and transparent, this will be reflected in the venues we use, the documents we produce and our methods of engagement;
- Representations are fully considered and help to shape our approach and that feedback is provided to all representations received;
- We take the extra step to engage with as wide an audience as possible, reflecting the diverse nature of our community.

At the outset of the Local Development Plan process we will engage with elected members and with community councils/ associations, explaining the process, seeking views on land use matters, raising awareness of Local Place Plans and how Community Councils can help to raise awareness of the Plan.

Key agencies such as SEPA, Historic Environment Scotland, NatureScot, Scottish Forestry, Transport Scotland, Highlands and Islands Enterprise, NHS Grampian and Scottish Water will be engaged throughout the process. The Council has an infrastructure Delivery Group which includes representation from Transport Scotland, NHS Grampian, Scottish Water and officers from the Council Housing, Transportation and Planning service. The Council will continue to liaise with and consult with Homes for Scotland as an umbrella group and with its individual members.

The full Participation Statement is set out in Appendix 2.



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Development Plan Scheme	Internal	Dec 2022	No	
Participation Statement	Internal	Dec 2022	No	
Self-Build land register	Internal	Publish February/ March 2023	No	
Invitation to prepare Local Place Plans	Internal	Publish January/ February 2023	No	
Call for Ideas	Internal	Publish January/ February 2023	Advertisement	
Early engagement to inform Evidence Report (see Participation Statement)	Internal	February 2023 to September 2023	No	
20 minute approach for Moray	Internal	Agreed approach June 2023	No	
Demographics-population, migration, households, employment for ER	Internal	Review Complete October 2023	No	
Brownfield sites assessment	Internal	Report to P&RS October 2022	No	
Prepare Housing Land requirement	Internal	Complete HLR paper July 2023	No	
Town and village capacity studies	Internal	Complete studies end May 2023	No	
Review Countryside Around Town boundaries	Internal	Complete review end April 2023	No	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Review Special Landscape Area boundaries	Internal	Complete review end April 2023	No	
Review Town Centre boundaries	Internal	Complete review end April 2023	No	
Housing Need and Demand Assessment	Internal- led by Housing	Complete by June 2023	Financed by Housing Services	
Review of action taken to support and promote construction and adaptation of housing to meet the needs of older people and disabled people	Internal	Complete by June 2023	No	
Strategic Housing Investment Plan*	Internal	Annual review	No	
Summary of the action taken by the planning authority to meet the accommodation needs of Gypsy/ Travellers and an analysis of the extent to which that action has helped meet those needs.	Internal	Complete by end October 2023	No	
Housing Land Audit 2023 & 2024	Internal	Annual reviews. Complete by end June	No	
Need for short term let control areas	Internal	Review complete by June 2023	No	
Annual Monitoring report 2023 and 2024	Internal	Annual reviews	No	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Employment Land Audit	Internal	Annual review complete by end June	No	
Town Centre Health Checks 2023	Internal	October 2023	No	
Retail Study	External	Reported to P&RS Committee April 2022	No	Complete
Tourism development opportunities	Internal	Complete December 2023	No	
Minerals survey Demonstrate capable of meeting the 10 year landbank of construction aggregate in all market areas, existing permitted minerals reserves and relevant elements from aggregates survey	Internal	Complete by end September 2023	No	
Tourism Strategy *	Internal	Complete by end September 2023	No	
Moray Economic Strategy *	Internal	Complete by end October 2023	No	
Annual economic activity report/ Council strategy	Internal	Complete by end October 2023	No	
Business Needs survey	External	Complete by end September 2023	£20k	
Areas of inequality and socio economic performance indicators	Internal	Complete by end September 2023	January to May 2023	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Town Centre Improvement Plans	Internal	Report to P&RS Committee October 2022	No	
Community benefits (NPF4 policy)	Internal	Community benefits report going to Nov Corporate Services Cttee. NPF4 approach to be progressed by Q1/Q2 2023	No	
Open Space Strategy	Internal	Audit complete end February 2023. Complete draft by end September 2023	No	
Carbon calculations NPF4 policy methodology	Internal	Completed by end Q1/Q2 2023	No	
Play Sufficiency Assessment	External	Commission April 2023, complete October 2023	£30k	
LBAP- priority habitats and species and site data	External	April 2023 to December 2023	£12,000	
Forestry/ Woodland & potential wider land uses and recreation	External	January 2023 to September 2023	£45k split between Moray Council, HIE and Scottish Forestry	
Conservation Area Appraisals phase 1	External	Complete April 2023	£12,000 in 22/23, potential for further appraisal work in 23/24	
National strategies relating to climate change and land use*	Internal	Complete August 2023	No	
Areas of poor air quality	Internal	Complete August 2023	No	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Sources and scale of climate change emissions and climate risks to the region	Internal	Complete August 2023	No	
Heat mapping to inform potential for co-locating developments with high heat demand with sources of heat supply	Internal	Complete by end July 2023	No	
Rural Areas	Internal	Complete September 2023	No	
Carbon and biodiversity offsetting methodologies	Internal and External	Just Transition funding secured	Complete September 2023	
Opportunities for Aquaculture	Internal	Complete August 2023	No	
Realise full potential for electricity and heat from renewable, low carbon and zero emission sources	Internal	Complete by October 2023	No	
Areas of constraint for green energy	Internal with minor external input	Complete June 2023	Potential spend on landscape sensitivity study	
National waste management plan*	Internal	Complete June 2023	No	
Local waste data	Internal	Complete June 2023	No	
Strategic Flood Risk Assessment	Internal	September 2022 to February 2023	No	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
River Basin Management Plans*	Internal	Complete by August 2023	No	
Buildings at risk register*	Internal	Complete by August 2023	No	
Wildland/ areas with wild land quality*	Internal	Complete by August 2023	No	
Data on peat and carbon rich soils*	Internal	Complete by August 2023	No	
Native Woodland Survey of Scotland and Ancient Woodland Inventory	Internal	Complete by August 2023	No	
Review Tree Preservation Orders	Internal	Report to P&RS Committee December 2022	No	
Review of areas designated for their local nature conservation interests	Internal	Complete by September 2022	No	
Coastal evidence and information- erosion, coastal change	Internal	Complete by August 2023	No	
Core Paths*	Internal	Complete by September 2023	No	
Landscape Sensitivity Study, details of wind turbines and solar farms and other RE infrastructure	Internal	Report to P&RS Committee Q3 2023/24	£5k	
Allotments and Food growing areas	Internal	Complete by October 2023	No	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Sport and Recreation Strategy	TBD	TBD	TBD	
Details of infrastructure capacity and planned investments, including communications, drainage, water, energy, healthcare, education, digital and grey, green and blue infrastructure, drinking water facilities, sewerage, gas, electricity networks	Internal	Complete by September 2023	No	
Learning Estate Strategy*	Internal- Education	Assess implications by September 2023	No	
Reflect proposals from Moray Transport Strategy* Elgin Transport Strategy*	Internal	Complete by September 2023	No	
Transport Appraisal and model	External	1st stage Complete by September 2023, 2nd stage timeline to be confirmed	£250,000	
Transport evidence baseline-identify gaps	Internal	Complete by September 2023	No	
Evidence base on public transport*	Internal	Complete by September 2023	No	
Condition, use and proposals for harbours	Internal	Complete by September 2023	No	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Travel to work patterns	Internal	Complete by September 2023	No	
Active travel networks and data	Internal	Complete by September 2023	No	
Active Travel Strategy*	Internal	Complete by September 2023	No	
Digital infrastructure and not spots, gaps in provision, investment plans	External	Complete by September 2023	No	
Data on low carbon infrastructure	Internal	Complete by September 2023	No	
Electric Vehicle Infrastructure Strategy*	Internal	Complete by September 2023	No	
Engagement re Evidence report, Place based issues, RSS	Internal with minor external	Complete by October 2023	£5k potential facilitation	
How we have sought views	Internal	Complete by January 2023	None	
How we have invited LPP and taken account of registered LPP	Internal	Complete by January 2023	None	
Public health and well-being indicators, health issues such as obesity, mental health, heart disease	Internal	Complete by September 2023	None	
Site appraisal methodology	Internal	Complete September 2023	None	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Evidence from impact assessments including carrying out the Equality, Fairer Assessment	Internal	At Evidence Report and Proposed Plan reporting stage	None	
Areas of prime agricultural land*	Internal	Complete July 2023	None	
High risk development areas (HSE)*	Internal	Complete July 2023	None	
Creative Scotland plans and local cultural plans*	Internal	Complete September 2023	None	
Number and range of cultural venues and facilities, including live music	Internal	Complete September 2023	None	
LOIP, Community Plan implications for LDP*	Internal	Complete September 2023	None	
Draft Evidence Report chapters sent to stakeholders. Set out any areas of dispute regarding evidence and areas of agreement	Internal	Send January 2024	None	
Report to full Council	Internal	Report to full Council March 2024	None	
Gatecheck Procedure	External-DPEA	April 2024 to December 2024	Cost of Gatecheck to be clarified by Scottish Government	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Template for settlement statements- place based approach	Internal	March 2023	None	
Develop local policies and guidance	Internal	March 2023 to September 2023	None	
Prepare Delivery Plan	Internal	April to June 2025	None	
Draft spatial strategy	Internal	February 2023 to November 2023	None	
Report proposed plan to full Council	Internal	August 2025	None	
12 week consultation	Internal	September to end November 2025	None	
Prepare schedule 4's for Council and Examination	Internal	December 2025 to April 2026	None	
Report Schedule 4's to Council and request Examination	Internal	August 2026	None	
Reporter issues further information requests and convenes hearings if necessary	Internal	September 2026 to April 2027	None	
Reporter issues Examination report and Plan modified	External	May/ June 2027	Council required to pay for cost of Examination	
Intention to adopt	Internal	July 2027	None	
Adopt Plan	Internal	September 2027	None	
Publish Delivery Programme	Internal	September 2027	None	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Strategic Environmental Assessment Scoping Report	Internal	March 2023	None	
SEA Draft Environmental Report	Internal	January 2025	None	
Final Environmental Report	Internal	June 2025	None	
Publish post adoption SEA Statement	Internal	November 2027		
Habitats Regulation Assessment	Internal	June 2025	None	
Report RSS to Committee	Internal	March 2024	Potential facilitation of workshops	



Participation Statement

Engagement Outcomes

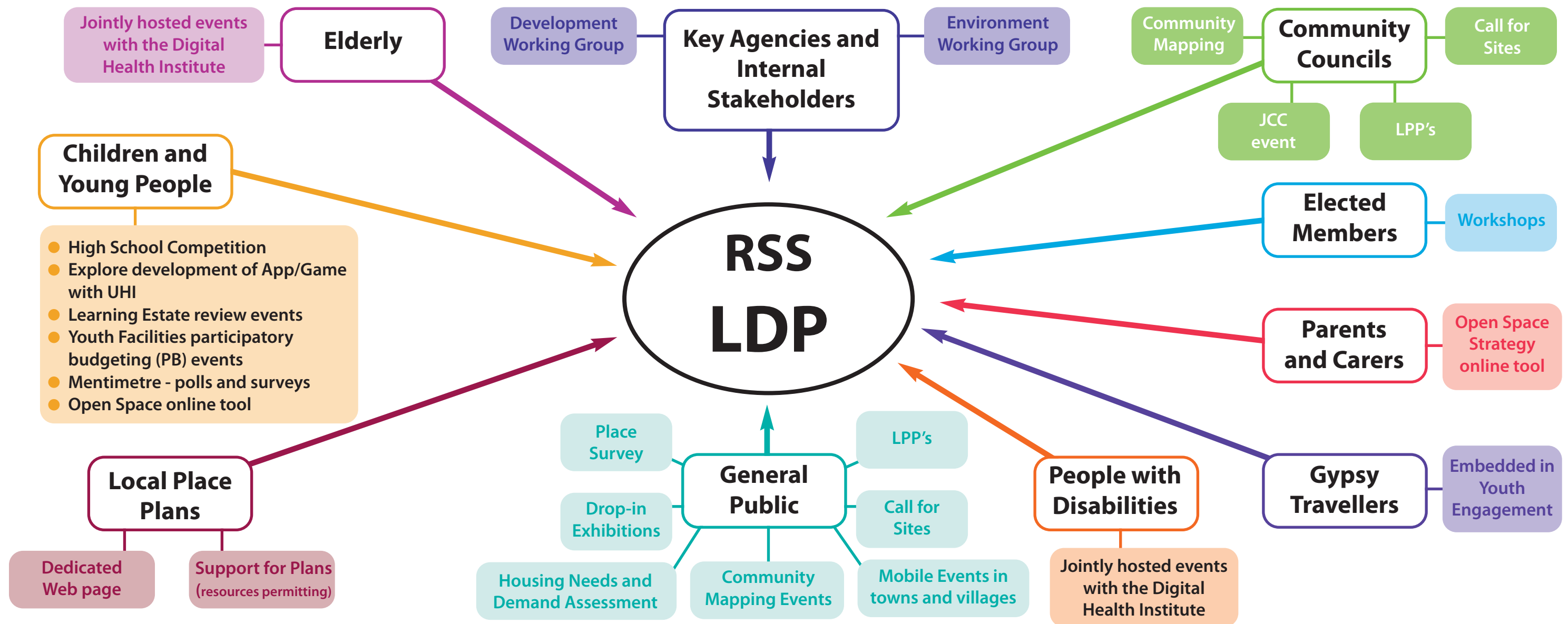
16

- Early meaningful and inclusive engagement meeting National Standards for Engagement
- Youth Engagement linked to the Curriculum for Excellence
- Geographic and demographic spread of engagement
- Spatial outputs from engagement to inform “Place” based plan
- Partnership working to engage beyond Local Development Plan both locally and strategically on Moray Growth Deal, Regional Spatial Strategy and Locality Plans
- Deliver engagement through a climate change lens



Evidence Gathering and Evidence Report Stage

Now to September 2023



Methods of Engagement



Online

- Website
- Social Media
- 'Place' Survey
- Open Space online tool



Face to face

- Drop in Exhibitions
- Mobile events
- Community Mapping
- Learning Estate Review and PB events



Technology

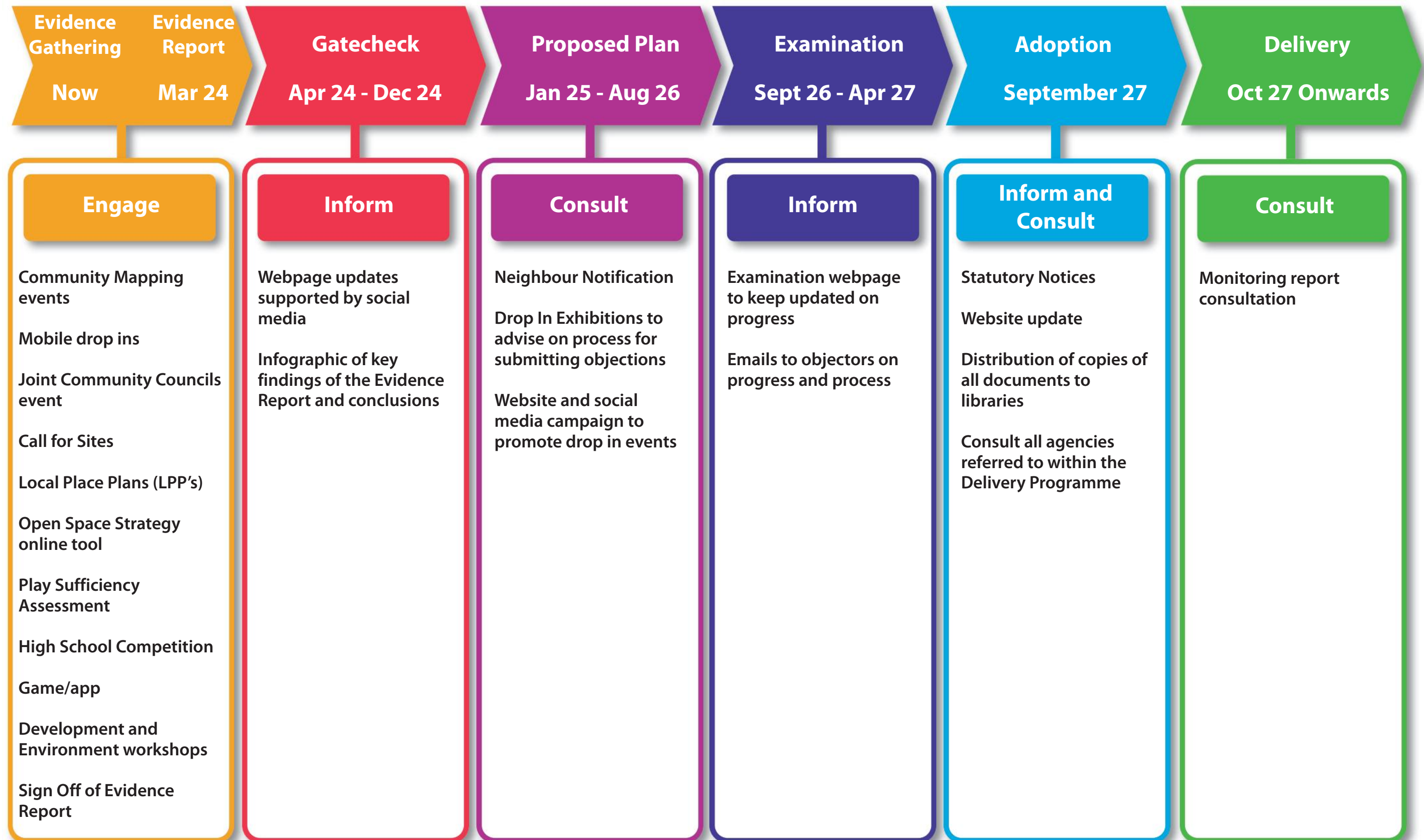
- Game/App development
- Mentimetre - surveys, polls, quizzes



Facilitated Sessions

- Local Place Plans
- Key Agencies and Internal Stakeholder workshops
- Elected Members workshops

What engagement we are going to undertake at each stage





**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
20 DECEMBER 2022**

**SUBJECT: PLANNING POLICY GUIDANCE – MORAY LOCAL
DEVELOPMENT PLAN 2020**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to approve planning policy guidance (PPG) for Policies PP1 *Placemaking*, DP1 *Development Principles* and EP5 *Open Space* of the Moray Local Development Plan (MLDP) 2020 in respect of inclusive and accessible play.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the review and preparation of Strategic and Local Plans.

2. RECOMMENDATION

2.1 It is recommended that the Committee agrees:-

- (i) to approve the planning policy guidance (PPG) for the Moray Local Development Plan (MLDP) 2020, as set out in Appendix 1;**
- (ii) that the PPG will be used as a material consideration in the determination of planning applications; and**
- (iii) to note that this PPG will be combined with the guidance approved by this Committee in May 2022 into one document.**

3. BACKGROUND

- 3.1 The MLDP 2020 was formally adopted on 27 July 2020. At a meeting on 3 June 2020, the Emergency Cabinet agreed that additional policy guidance would be provided to clarify certain policy aspects of the MLDP 2020 (para 6 of the minute refers).

- 3.2 A number of updates covering matters such as placemaking, trees and listed buildings have been approved by this Committee at its meetings on 15 September 2020 (para 16 of the minute refers), 10 November 2020 (para 10 of the minute refers), 23 March 2021 (para 13 of the minute refers) and 31 May 2022 (para 9 of the minute refers).
- 3.3 It has become apparent through the operation of policies that further clarification is required on what constitutes inclusive and accessible play areas and equipment.

4. STATUS

- 4.1 The PPG is intended as an evolving technical guide/aid for developers and officers to be updated as further clarification on policy requirements becomes evident through the operation of the MLDP 2020 and as such, the guidance is not publically consulted upon but once agreed, will be used as material consideration in the determination of planning applications.

5. INCLUSIVE AND ACCESSIBLE PLAY

- 5.1 Policy PP1 requires play areas to be inclusive, providing equipment so that the facility caters for every child/young person regardless of ability. Policies DP1 and EP5 requires open space to be accessible for all generations and mobility (including consideration of gradients and path surfaces) and provide diverse play facilities for a range of ages.
- 5.2 The guidance proposed in **APPENDIX I** provides clarity on the requirements for the provision of inclusive and accessible play areas and establishes a consistent approach to the assessment of such. As well as providing clarification regarding terminology, the PPG sets out the minimum requirements for inclusive and wheelchair exclusive play equipment based on the park hierarchy, as set out on Policy EP5 and the Open Space Strategy Supplementary Guidance. Clarification is also provided in respect of accessibility to and from recreational spaces so as to avoid physical barriers to participation.
- 5.3 The PPG provides examples that will assist in the design of play areas and establishes the requirements for a variety of equipment that meets the needs of different ages and abilities. Applications will require to be supported by a statement which demonstrates how the proposed play area meets requirements in respect of play equipment, types and values.
- 5.4 Consultation has been undertaken with ParentAble Moray who were supportive of the principles of the PPG. Comments provided in relation to accessible materials and sensory planting have been reflected in the PPG.

6. SUMMARY OF IMPLICATIONS

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

The MLDP 2020 is a vital aspect in supporting and facilitating the Council's priority for economic growth. The Plan also aims to deliver other key aspects of Moray 2026, including the delivery of affordable housing and conservation and enhancement of Moray's high quality and historic environment. The PPG seeks to support these key aims.

(b) Policy and Legal

The MLDP is a statutory plan which brings together and helps deliver key aspects of Moray 2026 and other national and local plans, strategies and policies. This PPG helps to deliver high quality places that are inclusive and accessible and is fundamental to achieving both national and local aspirations.

(c) Financial implications

None.

(d) Risk Implications

The PPG provides a clear and consistent approach to the implementation of MLDP 2020 policies. There is a risk that if the PPG is not in place then this might inhibit the creation of inclusive and accessible play areas, which is detrimental to health and wellbeing.

(e) Staffing Implications

Work on the PPG has been undertaken as part of the workload of Strategic Planning & Development.

(f) Property

None.

(g) Equalities/Socio Economic Impact

The guidance is intended to assist Moray Council in promoting equality of opportunity on the grounds of disability. In order to ensure that the PPG reflects this, Officers have consulted with local representatives of parents with disabled children. An Equality Impact Assessment will be undertaken as part of the design of new play areas or the upgrading of existing play areas.

(h) Climate Change and Biodiversity Impacts

There are no climate change or biodiversity implications arising from this report. However, as part of embedding climate change principles within the planning process, there is an expectation for developments to minimise carbon emissions in their design and construction and be adaptive to the expected impacts of climate change.

(i) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Head of Financial Services, the Legal Services Manager, the Development Management and

Building Standards Manager, the Open Spaces Manager, the Principle Climate Change Strategy Officer, the Equal Opportunities Officer and Lissa Rowan (Committee Services Officer) have been consulted and are in agreement with the contents of the report. Any comments received have been incorporated into the report.

7. CONCLUSION

- 7.1 The PPG is an evolving document that is intended to be updated as further clarification on the interpretation of policies becomes evident through the operation of the MLDP 2020.**
- 7.2 The proposed guidance provides clarification on the requirements for the provision of inclusive and accessible play areas.**

Author of Report: Darren Westmacott, Planning Officer (Strategic Planning & Development)

Background Papers:

Ref:

Inclusive and Accessible Play

Play areas in new developments, and their subsequent replacement/upgrading, must be inclusive and accessible, providing children and young people of different abilities with equal access to high quality social and play provision.

Inclusive and Wheelchair Exclusive Play Equipment

At least 50% of play equipment provided in play areas must be to inclusive standards and integrated throughout the layout. Inclusive means equipment that is designed to be used by children of all ages and abilities, including those with disabilities. A variety of equipment must be provided that meets the needs of different ages, groups and abilities.

For larger parks, wheelchair exclusive equipment must also be provided. This is equipment that is designed to be used by those in a wheelchair, either remaining in the chair or being transferred onto an item of equipment, and can only be used exclusively by those in a wheelchair (i.e. wheelchair swing).

Based on the park hierarchy set out in the Open Space Strategy, the minimum number of pieces of inclusive and wheelchair exclusive play equipment are:-

Park Hierarchy	Total Pieces of Equipment	Inclusive	Non Inclusive	Wheelchair Exclusive
Public Park	14	7	6	1
Neighbourhood Park	10	5	4	1
Pocket Park	6	3	3	0

NOTE: A two swing set is considered to constitute a single piece of equipment.

The equipment provided in Public and Neighbourhood Parks must display all of the differing play values/types set out in the table below. Pocket Parks must display a minimum of 6 differing play values/types. All parks must provide opportunities for creative, imaginative and sensory play as well as space for social interactions.

A statement must be provided evidencing how the design and implementation of the play area meets the equipment and play values/types requirements. It should be noted that wheelchair swings are excluded from assessment against 'Swinging'.

Running, skipping and/or hopping	Rocking
Climbing	Rotating or spinning
Swinging	Gliding
Sliding	Jumping
Balancing	Crawling

In addition to these play equipment requirements, sensory panels and/or instruments must also be provided in all parks. This is equipment that stimulates the senses and may be tactile, auditory or visual. Sensory planting is also encouraged in landscaping proposals.

Accessibility

Accessibility is defined as surfacing and paths which do not present physical barriers to participation, including entrances and exits, movement around space and access to equipment (play and non-play). Proposals for play areas must be located where paths and recreational spaces are on gradients that are suitably flat. Surfacing, paths and benches (inclusive and wheelchair-friendly) must be designed to be fully accessible to people of all ages and abilities. This means that materials used must prevent any barriers to access, such as grass matting or wetpour. The use of play bark chippings and raised play areas will not be acceptable.

An Equalities Impact Assessment will be undertaken by the Planning Authority as part of the assessment of play area proposals. The annotated photographs below provide some advice when designing a play area.





Good mix of equipment for different ages and abilities but on a slope which impacts on accessibility.



Good mix of inclusive equipment but could be expanded to cater for all ages.



Good use of colour, utilising accessible materials and providing a variety of equipment.





Provision of wheelchair exclusive play equipment but not accessible due to lack of path provision to use equipment.



Provision of inclusive equipment but not accessible due to lack of path provision to the equipment.



Close proximity of disabled car parking spaces and accessible path to play area.



Poor access into play area with no footpath and inappropriate gradient meaning it is not accessible for all.



Raised play areas and bark chippings are unacceptable



