

# MORAY COUNCIL

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

4 APRIL 2022

### VARIOUS LOCATIONS VIA VIDEO-CONFERENCE

#### PRESENT

Councillors Bremner (Chair), Brown, Cowie, Divers, Feaver, Macrae, R McLean, Powell, Ross, Taylor and Warren.

#### APOLOGIES

Councillors A McLean, Cowe, Nicol.

#### IN ATTENDANCE

Head of Economic Growth and Development, Acting Head of Environmental and Commercial Services, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Ms R MacDougall, Planning Officer, Legal Services Manager, Mr K Hargest (Hargest Planning Ltd) 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 or any declarations of Member's interests in respect of any item on the agenda.

### 2. EXEMPT INFORMATION

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

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
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9	13
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### 3. PLANNING APPLICATION 22/00064/APP

**Section 42 application to vary conditions 8, 13 and 25 of 19/00460/APP to reflect updated drainage layout at Maverston Urquhart Elgin Moray for Maverston LLP**

A report by the Appointed Officer recommended that, for reasons detailed within the report, planning permission be granted for a Section 42 application to vary conditions 8, 13 and 25 of 19/00460/APP to reflect updated drainage layout at Maverston, Urquhart, Elgin, Moray for Maverston LLP.

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

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/00064/APP, as recommended, subject to:

- (i) a variation to the existing Section 75 legal agreement; and
- (ii) the following conditions and reasons:

1. Notwithstanding the provisions of Article 3 and Schedule 1 Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), Planning permission for the haul road hereby approved is granted for a temporary period only and shall cease to have effect on 8 October 2024 (the 'cessation date'). Prior to the cessation date, the haul road shall be removed and reinstated in accordance with a scheme approved in writing by the Council, as Planning Authority under condition 2 of this permission.

**Reason:** In recognition of the temporary nature of the proposed development, to enable the Council, as Planning Authority to reassess the impact of the development after a given period of time and secure removal and restoration.

2. No development shall commence until a reinstatement plan for the area affected by the haul road hereby approved has been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the approved scheme shall be implemented in full in accordance with condition 1 above. For the avoidance of doubt the reinstatement plan shall make provision for the replanting of trees along the area of the haul road hereby approved.

**Reason:** To secure removal and appropriate restoration.

3. No development shall commence until a tree survey which identifies all trees to be removed, topped or lopped within the area affected by the haul road hereby approved has been submitted to and approved in writing by the Council, as Planning Authority. This should show that the route of the haul road has been designed to minimise the loss of trees by minimising its footprint and aligning it through the previously cleared woodland blocks as far as practicable, as per the recommendations contained within the submitted report entitled 'Maverston Proposed Phase 2 Housing Development Extended Phase 1 Habitat Survey' by Northern Ecological Services dated April 2019. Thereafter, the approved scheme shall be implemented in full in accordance with condition 1 above.

**Reason:** To ensure that the woodland affected by the haul road route is surveyed and to minimise the impact of the development upon the trees along the route.

4. No development shall commence until a pre-construction badger survey, in line

with the recommendations contained within the submitted report entitled 'Maverston Proposed Phase 2 Housing Development Extended Phase 1 Habitat Survey' by Northern Ecological Services dated April 2019, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified and a species protection plan. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

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

5. No development shall commence until a pre-construction reptile survey, in line with the recommendations contained within the submitted report entitled 'Maverston Proposed Phase 2 Housing Development Extended Phase 1 Habitat Survey' by Northern Ecological Services dated April 2019, has been undertaken and a report of survey has been submitted to, and approved in writing by the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

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

6. No development shall commence until a pre-construction red squirrel survey, in line with the recommendations contained within the submitted report entitled 'Maverston Proposed Phase 2 Housing Development Extended Phase 1 Habitat Survey' by Northern Ecological Services dated April 2019, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

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

7. No development shall commence until a pre-construction bat survey, in line with the recommendations contained within the submitted report entitled 'Maverston Proposed Phase 2 Housing Development Extended Phase 1 Habitat Survey' by Northern Ecological Services dated April 2019, has been undertaken and a report of survey has been submitted to, and approved in writing by the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

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

8. No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority, regarding details of a woodland planting scheme (the Replanting Scheme) within Moray to compensate, in this case, the removal of 32,200m<sup>2</sup> of existing woodland from the site in order to accommodate the development. All proposals shall be in accordance with approved plan HLD K345.18/SL-03 Rev D (or any revision approved under condition 7 above). The Replanting Scheme details shall:
- a) include the specifications for:
    - i. on-site replanting;
    - ii. off-site compensatory planting;
    - iii. tree maintenance and measures for protection of existing trees (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;
  - 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. For the avoidance of doubt a technically competent professional(s) (e.g. chartered forester) with the required experience should inspect the replanting 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.

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.

9. No development shall commence until a phasing plan detailing the timescales of all landscaping works as shown on plans HLD K345.18/SL-02 and HLD K345.18/SL-03 Rev D and the Maintenance Schedule HLD K 345.18 dated 18 April 2019 (or any revisions approved under condition 7 above) has been submitted to and approved by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with these approved plans and timescales.

**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.

10. All landscaping works shall be carried out in accordance with the details shown on approved plans HLD K345.18/SL-02 and HLD K345.18/SL-03 Rev D and the Maintenance Schedule HLD K 345.18 dated 18 April 2019 (or any revisions approved under condition 7 above). For the avoidance of doubt with the exception of those trees required to be removed for the construction of the haul road no trees shall be removed from the woodland in the northern part of the site.

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.

11. No development shall commence until details of an equipped play area as identified on approved plan 10313-P(00)002 including the maintenance arrangements have been submitted to and approved in writing by the Council, as Planning Authority along with details of measures to allow recreational access to the woodland to the north. The equipped play area shall be provided in accordance with the approved details and available for use prior to the occupation of the 14th house hereby approved. Thereafter the play area shall be maintained in accordance with the approved details.

**Reason:** To ensure the adequate provision of an equipped play area and its future maintenance.

12. All foul and surface water drainage proposals shall be in accordance with the submitted report Drainage Assessment Proposed Residential Development at Maverston, Moray, Issue 01, dated March 2019 and approved plans 117587/2010. No development shall commence until full written and plan details of the detention basins and specifications for the inlet headwalls to the detention basins have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter the approved details shall be implemented in full. For the avoidance of doubt.

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

13. No development shall commence until two passing places have been provided on the C19e to the Moray Council standards and specification as indicated on Appendix C of the approved Transport Statement.

**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.

14. No development shall commence until a visibility splay 4.5 metres by 165 metres, with all boundaries set back to a position behind the required visibility

splay, has been provided in both directions at the haul road access onto the public road; and 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 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.

15. The width of the access road shall be 5.5m with localised narrowing and 2.0m service verge and drainage provision as shown on Drawing No. 117587/1101 Rev B. The road shall be constructed to Moray Council standards and specification for Roads Construction Consent.

**Reason:** To ensure acceptable infrastructure at the development access.

16. The width of each individual vehicular access shall be a minimum of 3.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the prospective public carriageway. The part of the access over the prospective public footway/verge shall be to the Moray Council specification and surfaced with bituminous macadam. Drop kerbs shall be provided across the access to the Moray Council specification.

**Reason:** To ensure acceptable infrastructure at individual development accesses.

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

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

18. Parking provision shall be as follows:
- Minimum of 2 spaces for a dwelling with three bedrooms or less; or
  - Minimum of 3 spaces for a dwelling with four bedrooms or more;

No houses shall be occupied until the parking for that plot has been provided. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council, as Planning Authority.

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

19. No boundary fences, hedges, walls or any other obstruction fronting onto the prospective public road shall be within 2.4 of the edge of the carriageway and shall not exceed 1.0m in height.

**Reason:** To ensure acceptable infrastructure at the development access.

20. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic

Management Plan shall include as a minimum the following information:

- Duration of works;
- Construction programme;
- Number of vehicle movements (i.e. materials, plant, staff, compounds)
- Schedule of delivery of materials and plant;
- Full details of construction traffic routes to the site including any temporary construction accesses;
- Measures to be put in place to prevent material being deposited on the public road; and
- Traffic management measures to be put in place during works including any specific instructions to drivers.

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

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site, road safety and the amenity of the area/adjacent properties.

21. All development on the site hereby approved shall be connected to the public sewer or to a private system built to adoptable standard.

**Reason:** To ensure that foul drainage is adequately managed.

22. That for any subsequent detailed application relative to this approval, at least 3 units (10% of non-affordable units) shall be designed and built to wheelchair accessible spaces standards (as defined in the Moray Council 'Accessible Housing' Supplementary Guidance). Any application for the 9th, 18th and 27th such unit on the overall site shall each include an Accessible Housing Compliance Statement with sufficiently detailed plans to demonstrate that one accessible housing unit meeting these requirements has been provided as part of each tranche of development so that a minimum of 3 accessible units is provided overall. Thereafter the accessible units shall be provided in accordance with the agreed arrangements prior to the completion of the 9th, 18th and 27th units respectively. For the avoidance of doubt at least 50% of the wheelchair accessible units must be delivered as a single storey dwelling with no accommodation in the upper roof space, i.e. a bungalow. Thereafter the internal layout of these units shall remain as built and approved in perpetuity unless otherwise agreed with the Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development which provides accessible housing on the site.

23. The permission hereby granted shall not be exercised in addition to, or in conjunction with the permission approved under formal decision notice 06/01554/REM dated 10 September 2007.

**Reason:** In order to avoid any ambiguity regarding the terms of this consent.

24. No development shall commence on building works on the house plots hereby approved until the following works have been completed:
- 1) the temporary construction haul road as shown on approved plan no. 117587/SK1000 A (or any revision approved under condition 3 above) has been constructed;

- 2) the entrance road which runs between the southwest boundary of the site and the existing 'Maverston' access junction onto the C19e public road (located 590m to the northwest of the site), as shown on approved plan no. P(00) 002 D has been constructed to Moray Council specification; and
- 3) the traffic calming measures along the entrance road to the site shall be constructed to Moray Council adoptable standards in accordance with RCC 11419536410, approved plan 117587-SK1020 and a layout plan to be submitted to and agreed in writing by the planning authority in conjunction with the roads authority.

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

25. For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the approved plans, and the supporting documents including inter alia the Transport Statement, Extended Phase 1 Habitat Survey and landscape maintenance schedule submitted under 19/00460/APP.

**Reason:** In order to clarify the terms of permission.

#### **4. PLANNING APPLICATION 21/01803/APP**

##### **Proposed cafe at West Beach Caravan Park, Harbour Street, Hopeman, Elgin for Mr and Mrs Barry and Ruth Scott**

A report by the Appointed Officer recommended that, for reasons detailed within the report, planning permission be granted for a proposed cafe at West Beach Caravan Park, Harbour Street, Hopeman, Elgin for Mr and Mrs Barry and Ruth Scott.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the Appointed Officer considers there to be issues of wider community interest.

During his introduction, Mr MacPherson, Principal Planning Officer advised that the Committee had received 2 late representations, the first being from Mr Nash, an objector to the planning application and the second from the Applicant. Mr MacPherson advised that a version had been circulated to Members which had been redacted to remove those elements of the letter that introduced new information, or were sensitive in nature and irrelevant to the determination of the planning application subject of this report. Furthermore, all reference to the letter submitted on 25 March 2022 from Mr Nash had been redacted as this letter had not been accepted under the late representations policy.

Mr MacPherson advised that, although Members would have received a copy of this correspondence in full directly from Mr Nash, only those elements un-redacted should be taken into consideration and that the majority of the letter remained admissible as it related to Mr Nash's disagreement with the Officer recommendation and reference to grounds of objection already summarised and considered in the report. This was noted.



With regard to the late representation received from the Applicant, Mr MacPherson advised that the Applicant does not agree that the application should be described as partially retrospective as, in the Applicant's opinion, planning legislation permits the works that have already been undertaken.

The Applicant referred to the 28 days afforded by The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 for temporary buildings and uses however Mr MacPherson advised that this would not be applicable to the permanent construction of the café or constitute a temporary use of land.

Mr MacPherson went on to advise that the Applicant is of the view that the Caravan Sites and Control of Development Act 1960 permits the development of toilet/shower/laundry facilities by the caravan park therefore construction could commence prior to the final use of the building being determined whether or not approval for a Cafe is granted. Mr MacPherson advised that this assertion is incorrect as the Caravan Sites and Control of Development Act 1960 would not encompass construction of the café which has clearly commenced.

Mr MacPherson confirmed that the reference to the proposal being partially retrospective therefore remained accurate, however reminded Members that whether a development has commenced or not should not be a determining factor in the consideration of the application.

Mr MacPherson further highlighted page 107 of the report where at the end of the 4<sup>th</sup> paragraph it stated that the parking is wholly compliant with the parking requirement for any café and clarified that the Transportation assessment utilised the adopted Parking Standards for cafes associated with existing uses which made allowance for existing parking capacity, such that the level of parking sought is not the same as it would be for a stand-alone café business elsewhere. He went on to advise that the applicable parking standards guidance for this development, which is clearly associated and ancillary to the caravan park, had appropriately taken into consideration that the majority of custom to the café will be on foot from the surrounding caravan park where they are already parked and that the 13 proposed parking spaces, inclusive of 2 disabled spaces, addresses the parking requirements of those visiting the café from further afield by motorised transport.

During discussion, concern was raised as the proposal was located within an area of special landscape value and it was queried why Officers had assumed that 80% of those using the facility would already be residents of the caravan park and, if this assumption was wrong, then this would result in an increase of traffic using Harbour Street, which is already congested. Further concern was raised in relation to the safety of children using bikes or scooters in the caravan park in relation to the increase in traffic that may not be used to driving in caravan parks where children play.

In response, Mr MacPherson advised that the Applicant had provided the estimate in relation to residents likely to use the facility and those from outwith the caravan park and that in relation to road safety within the park, this was the responsibility of the park owner.

During further discussion surrounding the potential increase in the number of vehicle movements up and down Harbour Street leading to congestion, as a result of people out with the caravan park using the facility, it was queried whether the Applicant had been asked to mitigate this congestion in any way.

In response, Mr MacPherson advised that it was envisaged that the majority of users of the facility would already be residents of the caravan park however parking restrictions had already been placed on Harbour Street to mitigate against congestion.

Councillor Macrae, having listened to the debate, noted the number of representatives in favour of the facility and moved that the Committee approve Planning Application 21/01803/APP, as recommended by the Appointed Officer. This was seconded by Councillor Bremner.

Councillor Brown, having considered Officers responses to the questions raised at the meeting, remained concerned at the affect the proposal would have on the special landscape, the potential usage of the facility from patrons out with the caravan park resulting in an increase in traffic using Harbour Street and was of the view that the building design does not integrate into the surrounding area and does not reflect the core settlement statement. Taking these points into consideration, Councillor Brown moved that the Committee refuse planning permission in relation to Planning Application 21/01803/APP as the proposal is a departure from Moray Local Development Plan (MLDP) policies DP1 (Development Principles) a), b) and g) as the building is 2 stories and the location of the building is not appropriate for the surrounding area and does not fit in with the landscape as the proposed roof is pitched and not flat; it is contrary to policy DP1 (Development Principles) 2c) as it fails to provide a safe access from the road network; it fails to comply with policy EP3 Special Landscape Areas and Landscape Value (2) as the proposal is a new building. Councillor Brown further stated that, his previously stated points are not only contrary to the relevant policies in the MLDP, they are also contrary to the objective of the Hopeman Settlement Statement. This was seconded by Councillor Feaver.

On a division there voted:

For the Motion (5): Councillors Macrae, Bremner, Divers, R McLean and Warren

For the Amendment (5): Councillors Brown, Feaver, Powell, Ross and Taylor

Abstentions (1): Councillor Cowie

There being an equality of votes and in terms of Standing Order 63e), the Chair used his casting vote in favour of the Motion and the Committee agreed to grant planning permission in respect of Planning Application 21/01803/APP, as recommended, subject to the following conditions and reasons:

1. Prior to the first occupation of the development the Electric Vehicle (EV) charging arrangements shall be implemented in accordance with submitted drawing number 021/0887/02.3 (dated February 2022), and thereafter be retained for this purpose for the lifetime of the development 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.

2. Notwithstanding the submitted details (showing 13 spaces) a minimum of 12 car parking spaces shall be provided within the site, of which a minimum of 2 spaces shall be to mobility standards, along with cycle parking for a minimum of

16 spaces. The parking and cycle parking spaces shall be provided prior to the first occupation of the development and thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council, as Planning Authority.

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

3. The landscaping identified upon the submitted layout plan 021/0887/02.3 must be carried out in the first planting season following completion of the works, or within 1 year of the decision notice (whichever is the sooner). Within 5 years of permission being granted any bushes that die, or are damaged must be replaced with a plant of similar species.

**Reason:** In order to ensure the approved landscaping is timeously provided and that any planting which requires replacement is done so until the landscaping establishes itself.

4. Prior to completion of the building works a detailed plan, drawn to scale, must be submitted to and approved by the Council for the final position of the surface water soakaway. The soakaway must be provided and designed in accordance with the specifications contained within the GMC Services "Site Investigation & Drainage Assessment – HOPEMAN" dated April 2021 and submitted on 25 November 2021.

Thereafter the surface water soakaway must be built in accordance with the approved details and location and be in place prior to the building coming into use.

**Reason:** In order to ensure that the surface water drainage infrastructure is provided in line with the approved details and at the appropriate time.

5. The proposed café shall not be operated in conjunction, or simultaneously, with any other hot food outlet in the caravan park area as defined within Hopeman settlement designation T1 of Moray Local Development Plan 2020.

**Reason:** In order to avoid any ambiguity regarding the terms of this consent and to ensure that parking standards are complied with.

6. Unless otherwise agreed in writing with the Council, as Planning Authority, the security barrier at the west end of the caravan park track must be kept open and no other impediment to motor vehicles accessing the parking associated with the development shall occur whilst the café is open.

**Reason:** In order to ensure that the parking associated with the development is available for use while the café is open.

7. As per the annotation on the approved site layout plan, drawing number 021/0887/02.3, the double decker bus, comprised of dining table facilities must be relocated away from the café hereby approved (when in operation) to a location accepted in writing by the Council, as Planning Authority. The bus must not be used as additional seating for the café without the prior approval of the Council, as Planning Authority.

**Reason:** In order to avoid any ambiguity regarding the terms of this consent.

8. Unless otherwise agreed in writing with the Council, as Planning Authority, the café shall open no later than 7pm on any evening. This may be extended to 9pm during the months of July and August only.

**Reason:** In order to ensure that the amenity of the surrounding area is protected and that the business is operated as described in the supporting documentation.

Councillor Warren left the meeting at this juncture.

## 5. PLANNING APPLICATION 21/01670/APP

### **Amend road layout add new informal footpath and new house types on Plots 40 41 and 44 Phase 2 at Inchbroom Development Lossiemouth Moray for Tulloch Of Cummingston Ltd**

A report by the Appointed Officer recommended that, for reasons detailed within the report, planning permission be granted for an application to amend road layout, add new informal footpath and new house types on Plots 40, 41 and 44, Phase 2 at Inchbroom Development, Lossiemouth, Moray for Tulloch Of Cummingston Ltd.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, because the original application was previously reported to Committee.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 21/01670/APP, as recommended, subject to the following conditions and reasons:

1. No development shall commence until a landscape management plan has been submitted to and approved in writing by the Planning Authority providing details of the ongoing management of the woodland areas as shown on the approved Phase 2 Landscaping Plan. The woodland shall thereafter be managed in accordance with the approved plan throughout the lifetime of this consent.

**Reason:** To ensure that the development is integrated into the landscape, existing trees are safeguarded and managed, and to ensure that biodiversity is retained, protected and enhanced.

2. No development shall commence on site until tree protection measures have been implemented in accordance with the approved Phase 2 Landscaping Scheme. These measures shall be retained until completion of the development. No trees shall be felled unless a survey for red squirrels has been undertaken with the results submitted to and approved in writing by the Planning Authority.

**Reason:** To ensure that, existing trees are safeguarded and managed, and that biodiversity is retained, protected and enhanced.

3. All landscaping, and tree planting shall be implemented in accordance with the approved Phase 2 Landscaping Scheme (and any additional planting required as a result of provision of the visibility splays as required by condition 7 ) in the

first planting season following completion of occupation (whichever is the sooner) of the development hereby approved. Any trees which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

**Reason:** To ensure that the development retains, enhances and protects features of biological interest on the site and provides for their appropriate management and maintenance.

4. No residential unit shall be occupied until its surface water drainage arrangements have been completed in accordance with the approved plans and Drainage Statement. The drainage arrangements shall be maintained thereafter in accordance with the approved Drainage Statement throughout the lifetime of the development hereby approved.

**Reason:** In order to ensure the development is served by appropriate surface water drainage.

5. No residential unit shall be occupied until a scheme for the upgrading of the existing footway along the frontage of the site on the B9013 Inchbroom Road to a combined cycleway/footway (minimum width of 2.5 metres), including the extension of street lighting and timetable for implementation, from the Phase 1 Development Access to the south-east boundary of the site has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Transportation Manager. The scheme shall thereafter be implemented in accordance with the approved details and timetable

**Reason:** In the interests of achieving an acceptable form of development to provide safe and suitable access for pedestrians and cyclists along the site frontage of Inchbroom development site, linking to Core Path CP-LM 27 to the south-east of the site.

6. The construction of the development hereby approved shall not commence until the completion of Phase 1.

**Reason:** To ensure acceptable pedestrian and roads infrastructure to access the development and to ensure acceptable development that does not create any hazard to road users in the interests of road safety.

7. No development shall commence until:
  - i) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the composite visibility splay of 4.5 metres by 70 metres in both directions at the Phase 2 access onto the public road and 2.4 metres by 100 metre to the north-west and 2.4 metres by 160 metres to the south-east at the same access, with all boundaries set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority;
  - ii) thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and

- iii) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

These plans shall also provide details of any trees which may be affected or lost by the provision of the required visibility splays – and a plan of compensatory planting shall be provided should any trees need to be removed.

**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.

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

**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.

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

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

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

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

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

11. No water shall be permitted to drain or loose material be carried onto the prospective 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.

12. Acoustic double glazing shall be installed in all living apartments and consist of 2 panes of 4mm thick glass separated by a 16mm cavity. The Specification and acoustic performance shall be in accordance with section 3.4 of the Noise Impact Assessment titled "Report on Air traffic Noise for Tulloch of Cummingston at Inchbroom Road, Lossiemouth, Moray by Charlie Fleming Associates, Acoustical Consultants Noise Control Engineers, 16th October 2008 - Document 14651 " as submitted with planning application 08/01685/FUL.

**Reason:** In the interests of ensuring an acceptable form of development which and to mitigate any noise pollution.

13. Acoustically attenuated ventilators shall be installed in south-west facing bedrooms of house plot numbers 40 and 41. They shall also be installed in east facing bedrooms of house plot 44. The attenuated ventilators shall have an element normalised level difference,  $D_{n,e}$ , of at least 32dB in the 500Hz octave band.

**Reason:** In the interests of ensuring an acceptable form of development which and to mitigate any noise pollution.

## **6. PLANNING APPLICATION 21/00961/AMC**

**Approval of Matters specified in conditions 1 -19, 23, 25-58 & 61-64 on planning consent 17/00834/PPP and in relation to S42 application reference 19/01085/APP for a proposed residential development of 156 homes and 570 sq m flexible retail/commercial floor space (potential Class 1, 2, 3, & 10) including affordable housing with landscaping, parking, access and associated works within part of Area 1 at Site R11 Findrassie/Myreside And I8 Newfield Elgin Moray for Barratt North Scotland**

A report by the Appointed Officer recommended that, for reasons detailed within the report, planning permission be granted for the approval of matters specified in conditions 1 -19, 23, 25-58 & 61-64 on planning consent 17/00834/PPP and in relation to S42 application reference 19/01085/APP for a proposed residential development of 156 homes and 570 sq m flexible retail/commercial floor space (potential Class 1, 2, 3, & 10) including affordable housing with landscaping, parking, access and associated works within part of Area 1 at Site R11 Findrassie/Myreside and I8 Newfield Elgin, Moray for Barratt North Scotland.

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 for a development of more than 50 houses and the site exceeds 2ha.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 21/00961/AMC, as recommended, subject to the following conditions and reasons:

1. No development shall commence until details of the affordable housing delivery

have been submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site. This shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site, and thereafter evidence of a signed contract between the organisation and applicant which is to be submitted to the Council prior to start of construction of the proposed apartment building (affordable flats) hereby approved, unless otherwise agreed by the Council. 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 affordable housing within the site, and that it is managed accordingly for the lifetime of the development.

2. The accessible housing units (minimum 11) shall be provided in accordance with the submitted drawing numbers 17045(PL01)007\_D, 17045(PL)114-2,4 and 5 Type K, unless otherwise agreed in writing by the Council, as Planning Authority. Thereafter, the units shall at all times remain as accessible housing and capable for adaptation for accessible housing needs unless otherwise agreed with the Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development in terms of the required provision and delivery of accessible housing on the site.

3. All surface water drainage arrangements for the development site shall be in accordance with the submitted report Drainage Impact Assessment and Level 1 Flood Risk Assessment (Revision D) by Goodson Associates, updated 4 March 2022, and associated drainage drawings submitted with this application (with the exception of the proposed swale on the north/south road adjacent to plots 13 to 16 and 36 to 52, which shall be planted with street trees as per condition 25 below). All measures for the management of surface water as outlined within the abovementioned DIA (including maintenance) shall be fully implemented prior to the first occupation of any residential unit hereby approved.

**Reason:** To ensure that surface water drainage is provided timeously, complies with the principles of SuDS and in order to protect the water environment; and to mitigate against potential birdstrike risks to aircraft operations at RAF Lossiemouth (by ensuring that the SuDS detention is generally dry, holding water only during and immediately after extreme rainfall events).

4. That all foul water drainage arrangements for the development site shall be in accordance with the submitted report Drainage Impact Assessment and Level 1 Flood Risk Assessment (Revision D) by Goodson Associates, updated 4 March 2022, and associated drainage drawings submitted in support of this application.

**Reason:** To ensure an acceptable form of development in terms of the provision of foul drainage infrastructure for the development.

5. The properties facades identified in yellow on figure 6 of the Noise Impact Assessment supporting document by KSG Acoustics, dated 24 February 2022 (rev 1), and titled "Findrassie Area E2. Noise Impact Assessment addressing Planning Conditions 58, 61, 63 & 64 relating to Planning Consent reference



19/01085/APP prepared for Barratt North Scotland” shall have enhanced double glazing and acoustically rated ventilation required to an insulation value of  $R_w (C;C_{tr})$  of 37 dB (-1;-5) for glazing and 40 dB (dn,e,w) ventilation. These mitigation measures shall be implemented and maintained throughout the lifetime of the development.

**Reason:** In order to protect residents from road traffic noise.

6. A 2 metre high acoustic fence barrier of minimum surface density of 15 kg/m<sup>2</sup> shall be provided at the locations (plots 1, 57 and 140) identified on the Site Layout plan reference number 17045(PL01)002\_F. A scaled drawing (1:50) and details of the final selected acoustic barrier in terms of chosen material, design, surface density shall be submitted to and approved in writing by the Council, as Planning Authority prior to the occupation of the houses on these plots, and shall thereafter be installed and maintained throughout the lifetime of the development.

**Reason:** In order to protect residents from road traffic noise and to ensure a satisfactory form of development.

7. Dust emissions associated with the construction phase of the development shall be suitably managed and mitigated by adhering to the submitted scheme in the supporting document by Enviro Centre on behalf of Barratt Homes, dated July 2020, and titled “Findrassie, Elgin – Area 1 (E1 and E2) Dust Management Plan”.

**Reason:** To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including the neighbouring residential amenity.

8. 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 – 1600 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

**Reason:** To ensure the times of construction are controlled so as to prevent noise disturbance to neighbouring residential amenity.

9. Noise, vibration, dust and artificial lighting during the construction phase shall be suitably managed and mitigated by adhering to the submitted scheme in the supporting document by Enviro Centre on behalf of Barratt Homes, dated August 2021, and titled “Findrassie E2. Construction Environmental Management Plan (CEMP).”

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

10. This planning permission does not include approval for any external ventilation/ extraction or odour control plant or equipment associated with the flexible retail/commercial units (Use Classes 1, 2, 3 and 10) proposed on the ground

floor shown on drawing reference 17045(PL01)400-B titled “E2 Flats – Plan”. Should any of these units give rise to such plant or equipment this shall be the subject of a formal planning application for the approval of the Council, as Planning Authority prior to first operation/use of that unit.

**Reason:** To ensure any future external development is subject to suitable planning controls and as these details are currently lacking from the application.

11. Unless otherwise agreed with the Council, as Planning Authority, none of the flexible retail/commercial units (Use Classes 1, 2, 3 and 10) proposed on the ground floor shown on drawing reference 17045(PL01)400-B titled “E2 Flats – Plan” shall be operated/used until a Noise Impact Assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN) has been submitted to and approved in writing by the Planning Authority, in consultation with the Environmental Health and Trading Standards Manager, detailing all noise sources associated with that unit. The Assessment shall also identify all measures (including their location, design specifications and external impact) to be adopted to mitigate the impact of noise emissions from the development.

Thereafter, all resulting noise mitigation arrangements shall be implemented in accordance with the approved details prior to the first use of the flexible retail/commercial unit(s).

**Reason:** To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

12. Fixed plant and machinery noise emissions associated with any flexible retail/commercial units (Use Classes 1, 2, 3 and 10) proposed on the ground floor shown on drawing reference 17045(PL01)400-B titled “E2 Flats – Plan” shall, between the daytime of 0700 to 2300 hours, not exceed Noise Rating Curve (NR) 25, as determined within a living apartment of the nearest noise sensitive property with the external window moderately open. This limit would apply and be determined over a one-hour duration within any day-time period.

**Reason:** To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

13. Fixed plant and machinery noise emissions associated with any flexible retail/commercial units (Use Classes 1, 2, 3 and 10) proposed on the ground floor shown on drawing reference 17045(PL01)400-B titled “E2 Flats – Plan” shall, between the night time of 2300 to 0700 hours, not exceed Noise Rating Curve (NR) 20, as determined within the bedroom of the nearest noise sensitive property with the external window moderately open. This limit would apply and be determined over a five-minute duration within any night-time period.

**Reason:** To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

14. The temporary external construction lighting arrangements for the development shall be implemented in accordance with the submitted details, as shown in the plan titled “Findrassie Traffic Plan” (approved as part of application reference 20/00753/AMC). No further lighting shall be provided, installed or used within this phase except where otherwise agreed in writing by the Council, as

Planning Authority.

**Reason:** To ensure an acceptable form of development in particular to minimise the potential for light pollution including light glare/spill and disturbance impacts upon the visual amenity and appearance of the surrounding area, including any existing or proposed neighbouring residential property.

15. No development shall commence until details of the proposed sub-station including elevations of all works, means of enclosures and associated plant (including noise levels) have been submitted to, and approved by the Council, as Planning Authority, in consultation with Environmental Health and Trading Standards Manager. Thereafter the approved details shall be implemented in full prior to the first occupation of any part of the development.

**Reason:** To ensure an acceptable form of development as these details are lacking from the application.

16. The mitigation measures as detailed within the submitted documents titled 'Condition 43 Mitigation Statement' dated 19 August 2021 and 'Findrassie E2 Construction Environmental Management Plan (CEMP)' dated August 2021 prepared by Enviro Centre, and Pollution Prevention Plan drawing number CSL001 shall be fully adhered to by the developer and appointed contractor during the construction period and operational life of the development, unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** In order to protect the water quantity and quality of Loch Spynie SPA, Ramsar Site and SSSI and to prevent adverse impacts on the integrity of these protected areas and the water environment.

17. The pre-work checks, future survey requirements and mitigation as detailed within the submitted documents titled 'Findrassie E2 Ecology Survey 2019-2021' and 'Findrassie E2 Construction Environmental Management Plan (CEMP)' dated August 2021 prepared by Enviro Centre shall be fully implemented by the developer and appointed contractor, unless otherwise agreed in writing with this Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development taking into account the need to afford protection to all protected species identified as using the site or adjoining land.

18. Condition 51 of the Planning Permission in Principle (application number 17/00834/PPP) and related Section 42 approval (application number 19/01085/APP) regarding implementation and completion of a Programme of Archaeological Works is discharged for this application for approval of matters specified in conditions (AMC) only, and shall continue to remain applicable to any future AMC applications for development within the wider Area 1 development, granted under application 17/00834/PPP and associated Section 42 application 19/01085/APP.

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

19. No development shall commence until details confirming the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each unit) have been submitted to and approved in writing by the

Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council.

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

20. No trees other than those identified for removal in the submitted Tree Survey Report and associated Tree Protection Plans prepared by Envirocentre dated February 2022 shall be removed without the prior written approval of the planning authority.

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

21. The mitigation and enhancement recommendations as set out within Chapter 4 of the Tree Survey Report, prepared by Envirocentre dated February 2022 shall be fully adhered to by the developer and appointed contractor, unless otherwise agreed in writing by this Council, as Planning Authority. Any protection measures shall be implemented prior to any development commencing within that part of the site and retained until completion of that part of the development.

**Reason:** To ensure an acceptable form of development is provided in accordance with the submitted landscape plans and tree survey, and that suitable protection is afforded to existing trees, shrubs and hedgerows.

22. The mitigation, planting and habitat establishment/management measures as set out within the submitted Biodiversity Plan document and accompanying drawing titled "Landscape Proposals Sheet 1 of 7", number 415.52.01f (to be amended in accordance with condition 25 of this consent) shall be fully implemented by the developer and appointed contractor, unless otherwise agreed in writing with this Council, as Planning Authority.

**Reason:** In order to retain, protect and enhance biodiversity interests on the site and adjoining the site.

23. No development shall commence until a phasing delivery plan which shows the provision of the equipped play area within the central open space upon completion of 50% of the character area to which it pertains has been submitted to and approved in writing by the Council, as planning authority. This relates to the Character Area defined as the 'Open Space' area, shaded pink in the submitted Placemaking Statement, and the approved equipped play area shall be provided by the completion of the 35<sup>th</sup> residential unit within this character area. 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 adequate and timeous provision of an equipped play area.

24. No development shall commence until the following information has been submitted to and approved in writing by the Council, as Planning Authority. This shall be closely based upon the submitted Placemaking Statement and Play Equipment document (prepared by HAGS) accompanying the application, and show the following:

- a) Details (scaled drawings 1:100 and equipment specification schedule) of the equipped play area, surfacing, benches/picnic table including maintenance arrangements, which shall be inclusive for all abilities (and is to be agreed in consultation with ParentAble Moray);
- b) Details of all public artwork on the site, which shall reflect local and cultural associations with Thomas Telford and/or Pitgaveny's farming legacy, including timescale for delivery;
- c) Revised details of the waveform drystone dyke incorporating shorter sections with landform/banking orientated southwards to more closely mirror the arrangement approved at Phase E1 (to tie E1 and E2 together and provide a cohesive "theme" at this gateway location);
- d) Details of all seating, benches and litter bins to be provided on the site, including timescale for their provision;
- e) Phasing plan including timescales for provision of all landscaping works, which shall be carried out upon completion of each character area; and
- f) Details of the external material finishes of the bin stores for the flats and retail/commercial units.

Thereafter the development shall be implemented in accordance with these approved details, plans and timescales.

**Reason:** To ensure that the works to install the approved equipped play area, benches/picnic tables, seating and bins are timeously carried out and properly maintained for the lifetime of the development; and to ensure that the play area is inclusive, providing equipment so the facility is for every child/young person regardless of ability; provision of a revised entrance drystone/landform feature which ties phase E1 and E2 together and provides a cohesive "theme" at this gateway location in accordance with the masterplan; ensure distinctive urban form with public art to provide good orientation and navigation; and provides seating opportunities for all generations and mobilities.

25. No development shall commence until revised landscape plans have been submitted to and approved in writing by the Council, as Planning Authority. This shall be closely based upon the approved landscape plans, biodiversity plan and Placemaking Statement accompanying the application, and show the following:
- a) Updated landscape schedule identifying fruit/orchard trees within the central open space identified for community growing;
  - b) Revised landscape plans and schedules incorporating the provision of at least 6 street trees along the north/south route between plots 16 and 52, and 2 trees to mitigate parking for plots 106/107, and 121 along that route;
  - c) Revised landscape plans and schedules incorporating hedge planting showing the parking broken up at plots 122/123, 105 and at the front and rear of the retail/apartment building;
  - d) The AP-E planting incorporating the retention of existing trees within the northern part of the site (identified as tree group TG4) and recommended in the Tree Survey Report and associated Tree Protection Plans prepared by Envirocentre dated February 2022; and
  - e) Details of long-term maintenance arrangements for the AP-E planting area;

Thereafter the development shall be implemented in accordance with these approved plans and timescales. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of

similar size, number and species unless this Council, as Planning Authority gives written consent to any variation of this planning condition.

**Reason:** To ensure that the approved landscaping works are timeously carried out and properly maintained for the lifetime of the development, and ensure provision of additional street trees along the main north/south route in accordance with the masterplan/placemaking principles and to mitigate parking impacts.

26. The temporary bus turning loop and supporting infrastructure (Shelters/flags etc) shall be maintained and available for use until either alternative public transport infrastructure has been provided, or the infrastructure is no longer required in agreement with the Council, as Planning Authority in consultation with the Roads Authority. Thereafter, once no longer in use/required, the bus turning loop and supporting infrastructure area shall be removed and the impacted area shall be landscaped and reconfigured in the first planting season, in accordance with the drawing titled "Proposed Treatment for removed Bus Loop" number 415-42-09. Any plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council, as Planning Authority gives written consent to any variation of this planning condition.

**Reason:** In order to ensure that the approved landscaping works are timeously carried out in accordance with the masterplan, and properly maintained in a manner which will not adversely affect the development or amenity and character of the area

27. Prior to the completion of the 150<sup>th</sup> dwellinghouse and/or flat/apartment within phases E1 and E2 combined, the flexible retail/commercial units (Use Classes 1, 2, 3 and 10) proposed on the ground floor shown on drawing reference 17045(PL01)400-B titled "E2 Flats – Plan" shall be completed and made available for use. Notwithstanding the submitted floorplan identifying the proposed use classes the flexible retail/commercial units can be operated within any Use Class 1, 2, 3, and 10 and shall include the following: One unit a minimum of 200 sqm GFA for Class 1 (Shops, food) and Class 3 (Food and Drink) and a minimum of three flexible ground floor retail/commercial units for Class 1 (Shops), Class 2 (Financial, Professional and other services) and Class 3 (Food and Drink) and Class 10 (non-residential institutions) (a minimum of 250 sqm GFA in total) (as set out in the Findrassie Masterplan dated November 2015 (including any subsequently reviewed Findrassie Masterplan which supersedes or replaces the identified provisions of the current Findrassie Masterplan during the life-time of the permission hereby approved). The units shall be advertised for sale or lease on the open market by a chartered surveyor, for a minimum of 5 years/60 months from the completion of phase E2 after which a review of the marketing period will be required if units remain vacant. In order to inform this process the following details shall be provided for written approval by the Council, as Planning Authority:
- a) Within three months of the completion of all of the units within Phase E2 a detailed schedule for the sale/letting arrangements of the retail/commercial units must be provided to include details of the rent proposed, potential letting terms, and marketing arrangements. The units must be advertised at a market rent as defined by the RICS Valuation – Global Standards or less.
  - b) If any of the units remain vacant after 5 years/60 months from the

completion of phase E2 a review by the Council, as Planning Authority of the sale/letting arrangements and marketing period will be undertaken with evidence provided by the applicant in respect of the period which the units were marketed, where they have been marketed and the sales letting price.

**Reason:** In order to ensure the timely and effective delivery of the ground floor retail/commercial units within the Lossiemouth Road Character Zone to ensure the masterplan is delivered and that a sustainable community is provided, including a unit of sufficient size that will meet the day to day convenience needs of the neighbourhood.

28. Condition 15 of the planning permission in principle (application number 17/00834/PPP) and related Section 42 approval (application number 19/01085/APP) regarding off-site junction works on the A96 trunk road network is not discharged by this application.

**Reason:** To ensure that the scale and operation of the proposed development beyond 350 dwellings does not adversely affect the safe and efficient operation of the A96 trunk road network.

29. Development shall not commence until a construction management strategy has been submitted to and approved in writing by the Local Planning Authority, in consultation with Defence Infrastructure Organisation covering the application site and any adjoining land which will be used during the construction period. Such a strategy shall include the details of cranes and other tall construction equipment (including the details of obstacle lighting). The approved strategy (or any variation approved in writing by the Local Planning Authority) shall be implemented for the duration of the construction period.

**Reason:** To ensure that construction work and construction equipment on the site and adjoining land does not obstruct air traffic movements or otherwise impede the effective operation of air traffic navigation transmitter/receiver systems.

30. No tree felling shall commence on site until a compensatory planting scheme for the removal of the 37 trees from the site has been submitted to and approved in writing by the Council, as Planning Authority. The replanting scheme shall 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, shall include:-
- a) details of the location of the area(s) to be planted;
  - b) the nature, design and specification of the trees to be planted (to be mixed native species);
  - c) the timescales for implementing the Replanting Scheme;
  - d) proposals for the maintenance and establishment of the Replanting Scheme, including; annual checks; replacement planting; fencing; ground preparation; and drainage etc;

The approved Replanting Scheme shall thereafter be implemented in accordance with the timescales set out therein, unless other arrangements are agreed in writing by the Council, as Planning Authority.

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

31. Prior to the commencement of the 50th unit accessed from the A941 Elgin to Lossiemouth Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of the northern access to the development on the A941 including the proposed design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development access, bus laybys and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

**Reason:** To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interests of road safety.

32. No development shall commence on more than 50 housing units which are accessed from the A941 Elgin - Lossiemouth Road, until a second point of access and/or a route to enable an emergency access for use by all emergency vehicles, pedestrians and cyclists has been provided.

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

33. Prior to the operation of the northern access, as detailed in condition 18 of decision notice (19/01085/APP), a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show:
- i) the modifications to the A941/Myreside Road junction, design specifications and timescale for delivery of the junction modification to prevent vehicular access from the A941 onto Myreside Road;
  - ii) the proposed design for restricting vehicular access at the western end of Myreside Road; and
  - iii) written evidence to confirm that a Road Traffic Regulation Order has been secured to remove rights of access for motorised vehicles on the section of Myreside Road between the A941 and Myreside Farm Cottage.

Thereafter, unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority, the modification to the junction and the vehicular access arrangements shall be provided in accordance with the approved details and agreed timescales.

**Reason:** To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

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



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

35. No walls or any other obstruction whatsoever over 0.6m measured from the level of the public carriageway shall be permitted within any 'forward visibility' areas or any visibility splays crossing plot boundaries within all areas of the residential development, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

**Reason:** To enable drivers of vehicles to have an acceptable clear forward visibility, in the interests of road safety for the proposed development and other road users.

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

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

37. No works shall commence on any phase of the development until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding:

a) A Construction Traffic Management Plan which shall include the following information:

- duration of works;
- construction programme;
- number of vehicle movements (i.e. materials, plant, staff, components);
- anticipated schedule for delivery of materials and plant;
- full details of construction traffic routes from the Strategic Road Network (A941/A96) to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

and

b) Details of any required/proposed temporary construction access which shall include the following information:

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

- details regarding the timescale for the opening up and closure of any temporary access(es) together with the time period over which the temporary access(es) will be used.

Thereafter, the development of that phase(s) 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, road safety and the amenity of the area/adjacent properties.

38. Prior to the commencement of the 50th dwelling (house and/or flat/apartment) within E1 and E2 combined OR prior to the commencement of any non-residential, including commercial development but excluding the proposed primary school and local community 'hub', the following shall be provided:
- written details of the timescale for delivery of junction improvements at North Street/Morrison Road.

Thereafter, and prior to the commencement of the 100th dwelling (house and/or flat/apartment) within E1 or E2 combined OR prior to the commencement of any non-residential, including commercial development but excluding the proposed primary school and local community 'hub', the North Street/Morrison Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

**Reason:** To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

39. Notwithstanding the details submitted on Drawing 2714 Rev A 'Bus Tracking Plan' which are not accepted, no development shall commence until details (Plans scale 1:500 minimum) have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority which demonstrate that bus and HGV swept paths can be safely accommodated with opposing vehicle movements, within turning areas and at junctions with safe clearance from any features (landscaping, walls, parked vehicles etc) and without over-run of any area not designed to accommodate vehicle over-run. Thereafter the development shall be completed in accordance with the approved details.

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

40. Notwithstanding the details submitted in the Street Engineering Review and shown on Drawing 17045(PL01)002\_F 'Site Layout', for the 'steps' located to the south of plot 105 which are not accepted, no development shall commence until details (Plans scale 1:500 minimum) have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority which show provision of a path either in place of, or in addition to the proposed steps which are DDA compliant. Thereafter the development shall be completed in accordance with the approved details.

**Reason:** To ensure acceptable infrastructure is provided on the route to/from the development and the provision of details currently lacking.

41. Notwithstanding the details shown on Drawing 17045 (PL01)008\_A and 17045 (PL01)002 F (which are not accepted), no development shall commence on Plot 85 until revised details (Plan scale 1:500 min) have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority, which show the proposed 1800mm pier wall and fence boundary set back a minimum of 2 metres from the edge of the public road. Thereafter the development shall be completed in accordance with the approved details.

**Reason:** To ensure an acceptable form of development and the provision of visibility for Plot 85 in the interests of road safety and the submission of details currently lacking or incorrectly shown.

42. Prior to any Flexible Retail/Commercial unit being first occupied or brought into use, whichever is the sooner, a Deliveries Management Plan for that unit shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with the Roads Authority, for the management of all deliveries to the development, with all loading and unloading to be undertaken within the dedicated servicing area, and thereafter all deliveries shall be undertaken in accordance with the approved plan.

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

43. No development shall commence until the following information has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority:
- a) Details (Plans 1:500 min and Specifications) showing the design of an enclosed bus shelter, flags to be provided at the bus turning loop.
  - b) Details (Plans 1:1000 min) showing the extents of all roads and paths to be completed to enable access to be provided for bus services.
  - c) Evidence of a written agreement with local bus operators for the provision of bus services to serve that phase, including the extension/enhancement of existing bus services and/or the provision of new dedicated bus services to provide a minimum level of service operating from 7.00am to 6.00pm at a half hourly frequency, Monday to Friday inclusive, and from 8.00am to 6.00pm at an hourly service on Saturday, for a minimum duration of two years.

Thereafter, the bus stop infrastructure, and roads required to access the infrastructure from the A941 shall be completed and bus services shall be provided in accordance with the approved details prior to the completion of the first house within the development (E2).

**Reason:** To ensure the satisfactory provision of public transport infrastructure to serve the development.

44. No development shall commence until the following details have been submitted for approval in writing by the Council, as Planning Authority in consultation with the Roads Authority:
- a) Details to confirm the proposed phasing/build out programme of roads within the site including timescales for the completion of the southern and northern A941 accesses.
  - b) Evidence that the statutory process (Roads Construction Consent) to consider the details of the northern A941 site access including, kerbing, street lighting and drainage has been completed.

Thereafter, unless otherwise agreed by the Council, as Planning Authority in consultation with the Roads Authority, the development shall be completed in accordance with the approved details and no house or flat shall be completed prior to the completion of the A941 site access and roads required to provide access.

The following requirements shall be complied with:-

- a) Visibility splays shall be provided in both directions at the site accesses from Findrassie onto the A941 Lossiemouth Road and shall be maintained clear of any obstruction above 0.6 metres in height, measured from the level of the carriageway;
- b) The visibility requirements and landscaping provision within the 9m x 215m visibility splay shall be reviewed upon any proposed change to the agreed junction layout or the A941 speed limit and the advanced planting shall be planted in the first bare root planting season following the completion of any approved changes to the junction layout or the speed limit; and
- c) The visibility splay arrangement shall be reviewed no-less than 3-years from the commencement of construction, and thereafter every 18 months until such time as the splays are reduced, as confirmed by the Council, as Planning Authority in consultation with the Roads Authority. Within 3 months of the reduced splay being confirmed, a revised scaled landscape plan showing the re-introduction of the trees (as many as is practicably possible) within the affected splay areas including timescales for planting shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority.

**Reason:** To ensure an acceptable road and junction layout is provided and maintained for road users at all times in the interests of road safety and the advance planting requirements are reviewed in association with any changes to the A941 junction layout and A941 speed limit.

45. No house or flat shall be occupied until parking has been provided and made available for use by that house or flat and unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority. The parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved.

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

46. Notwithstanding the details submitted (Drawings EVC P003 Rev E, 17045(PL01)004\_D, 17045(PL01)005\_C and 17045(PL01)006\_C) and the EV charging provision and car park layout for the proposed flats (Plots 143-156) and retail/commercial units (which are not acceptable), no development shall commence until the following details have been submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority:
- a) Details (Plans scale 1:500 min) showing provision and layout of EV charging infrastructure and parking spaces serving the flats (Plots 143-156) and Retail/Commercial units compliant with Moray Council Planning Policy and Guidance.
  - b) Design/specifications for the proposed mounting/installations to be provided for any future EV charging points which would not be mounted

on a wall/within a garage.

Thereafter the development shall be completed in accordance with the approved details and parking provision and EV charging infrastructure shall be maintained and available for this purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

47. No house or flat shall be completed until the roads and paths connecting it to the existing A941 and Elgin-Lossiemouth cyclepath have been completed and opened to the public.

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

## **7. PROPOSAL OF APPLICATION NOTICE – 22/00287/PAN**

### **Residential development and associated infrastructure at R2 Speyview, Aberlour**

Councillor Warren re-joined the meeting at this juncture.

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 25 February 2022 on behalf of Springfield Properties PLC.

During discussion surrounding the proposed application, it was noted that there was no reference to active travel, no bus service in the area and that the access was on the A95 which raised safety concerns for children and young people travelling to and from school as well as elderly people as the road is very narrow.

During further discussion, it was noted that there was no mention of 20 minute neighbourhoods within the report.

In response, Mr Smith, Principal Planning Officer advised that he would forward these concerns to the Applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
- the provision of active travel;
  - the provision of bus services;
  - road safety for children, young people and the elderly on the narrow section of the A95;
  - compliance with 20 minute neighbourhood guidance; and

- (ii) that the matters raised by the Committee will also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

## **8. MORAY RETAIL STUDY**

Under reference to paragraph 14 of the Minute of the meeting of the Planning and Regulatory Services Committee dated 1 March 2022, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the findings of the Moray Retail Study and sought agreement that the Moray Retail Study is used as a material consideration in the determination of planning applications, the preparation of masterplans and the development of policy.

Following consideration, the Committee agreed:

- (i) to note the content of the Moray Retail Study in Appendices 1 to 6; and
- (ii) that the Moray Retail Study (Appendices 1 to 6) is used as a material consideration in the determination of planning applications, the preparation of masterplans and the development of policy.

## **9. UNAUTHORISED WORK TO A LISTED BUILDING IN KEITH [PARA 13]**

Councillor R McLean lost connection during consideration of this item and joined again toward the end of the debate.

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of unauthorised works to a listed building in Keith.

During discussion, Councillor Brown noted that the building was located on the main A96 in between a garage and commercial premise and noted that the windows were of a suitable design although did not meet the requirements in terms of material. Councillor Brown was of the view that taking enforcement action was not necessary and moved that the Committee agree that no enforcement action be taken. This was seconded by Councillor Ross.

In response, Mr MacPherson, Principal Planning Officer advised that, should the Committee agree that no enforcement action be taken, this would set a dangerous precedent as, not only was the property within a conservation area, it was also a listed building. The Development Management and Building Standards Manager further advised that it is a criminal offence to alter a listed building.

On considering the advice from Officers, Councillor Cowie was of the view that the Committee should follow the advice from Officers and moved, as an amendment, that the Committee agree the recommendation as printed within the report. This was seconded by Councillor Bremner.

On a division there voted:

For the Motion (3):                      Councillors Brown, Ross and Powell

For the Amendment (7): Councillors Cowie, Bremner, Taylor, Feaver, Divers, Macrae and Warren

Abstentions (1): Councillor R McLean

Accordingly, the Amendment became the finding of the meeting and the Committee agreed:

- (i) to Officers issuing a Listed Building Enforcement Notice under Section 34 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997;
- (ii) the Listed Building Enforcement Notice will require the owner of the property to replace the fitted UPVC windows and UPVC door on the front elevation of the property with sliding sash and case timber framed windows and a timber door to be carried out within 5 years of the date of the notice taking effect.
- (iii) that the notice requiring the fitting of the replacement windows and door will remain as a charge on the property until all work in relation to this is satisfactorily completed; and
- (iv) that the offence should not be referred to the Procurator Fiscal and that direct action should not be considered to secure compliance with the Notice.