

21/01615/EIA
13th October 2021

**South western extension of cobble and sand quarry at
Lossie Forest Quarry Moray
for Tennants (Elgin) Ltd**

Comments:

- The application is on a Major development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008 (the Hierarchy Regulations) and the site exceeds 2ha.
- Advertised as an EIA development and for Neighbour Notification, as a departure from the development plan and a Schedule 3 development.
- Three representations received at time of writing report.
- Any further representations received following expiry of statutory advertisements – 24 February 2022 (departure and Schedule 3) to be reported verbally at committee meeting.

Procedure:

None.

Recommendation

Grant Planning Permission subject to the following:

Conditions/Reasons

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on 1 March 2037 (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 14 & 15 below).

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.

2. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent has been put in place to ensure restoration of the site in accordance with conditions 14 and 15 below and has been submitted and agreed in writing with the Council, as Planning Authority.

Reason: To ensure adequate restoration of the site.

3. No development shall commence until the area of extraction hereby approved has been enclosed by a stock proof fence which shall be maintained thereafter to the satisfaction of the Planning Authority throughout the lifetime of the consent. For the avoidance of doubt there shall be no working whatsoever including the storage of materials or other items outwith this fence.

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.

4. 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 for the removal of existing woodland from the site in order to accommodate the development. All proposals shall be in accordance with the details contained in Section 11 of the Environmental Impact Assessment Report (EIAR) submitted with the application. The Replanting Scheme shall include:
 - details of the location of the areas to be planted;
 - details of trees to be retained within the site include the measures for their protection;
 - details of land owners and occupiers of the land to be planted;
 - the nature, design and specification of the proposed woodland to be planted;
 - details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - the phasing and associated timescales for implementing the Replanting Scheme; and
 - 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 compensatory planting is provided where the development results in a loss of woodland.

5. 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 WSI 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.

6. No development shall commence until a site specific Water Management Plan (WMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with SEPA. For the avoidance of doubt the WMP shall address the following matters:
- Management of general site surface water run off.
 - Flow balancing by sumps and pumping.
 - Control of particulates by settlement in sumps and lagoons.
 - Control of water chemistry.
 - Oil and scum removal.
 - Use of water in processing plant and treatment of effluent including vehicle washing water.
 - Containment of spillage from storage and processing areas.
 - Use of water in dust control.
 - Monitoring of groundwater levels.
 - Use of appropriate water to counteract groundwater lowering e.g. in nearby pools.
 - Regular cleaning and maintenance of water system; and thereafter, the development shall be carried out in accordance with the approved WMP.

Reason: To ensure adequate protection of the water environment.

7. No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Council, as Planning Authority in consultation with SEPA where appropriate. The CEMP shall address all pollution prevention and environmental management issues related to the development. Thereafter, the development shall be implemented in accordance with the approved CEMP details.

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

8. No development shall commence until the following details have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
- i. A design for the site access onto the B9103 including the left hand diverge, to address access surfacing, loose material and drainage issues.
 - ii. Resurfacing of the B9103 over its full width from the north of the site access to the south of the left hand diverge lane (approximately 50 metres).
 - iii. Measures to prevent loose material or water being deposited on the public road and mitigation measures to be put in place to deal with any occurrences.

Thereafter the works required shall be implemented in accordance with these approved details prior to the commencement of any operations to transport quarried materials from the development.

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.

9. A visibility splay 4.5m x 160m at the B9103 access in both directions shall be maintained for the operational life of quarrying works such that no vegetation within the visibility splay exceeds 0.6m in height.

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.

10. Except where otherwise provided for, or agreed and/or amended by the terms of this permission, the applicant/developer shall operate the development in accordance with the provisions of the application, the EIAR and the plans hereby approved including all plans contained in volume 3. For the avoidance of doubt this shall include compliance in full with all mitigation and monitoring measures listed in table 12.1 on pages 100 to 103 inclusive of volume 2 of the EIAR including:
- i) Cultural heritage;
 - ii) Hydrology and hydrogeology;
 - iii) Ecology;
 - iv) Noise;
 - v) Forestry;
 - vi) Air quality;
 - vii) Natural resource usage and waste management;
 - viii) Dust Management Plan (technical appendix 5.1); and
 - ix) Extractive Waste Management Plan (technical appendix 5.2) attached to the EIAR.

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.

11. The approval hereby granted is purely for the extraction and removal of cobbles and sand, and other than for the screening/grading of extracted material there shall be no rock crushing, production of quarry related products or other processing.

Reason: For the avoidance of doubt, in order to minimise the effect of the workings hereby permitted on the environment and so that appropriate consideration may be given to any such activities.

12. Notwithstanding the provisions of Classes 55 and 56 of the Town & Country Planning (General Permitted) (Development) (Scotland) Order 1992 (as amended, or as revoked or re-enacted; with or without modification) no buildings, plant or machinery (other than the single wheeled shovel loader or excavator within the extraction area and/or similar fixed/mobile plant, machinery and buildings located with the processing area), shall be installed or operated within the site without the prior approval of the Council, as Planning Authority.

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

13. Where proposed, as part of extraction and/or site restoration operations, any proposed infilling including partial infill of excavated quarry voids shall only be undertaken using material sourced on the site and no part of the permission hereby granted shall authorise or permit at any time the removal of top or sub-soil from the site or the import of material from outwith the site.

Reason: To prevent pollution of the water environment.

14. Not less than 12 months prior to completion of mineral workings in each phase of development as detailed in the EIAR, details shall be submitted to and approved by the Planning Authority in consultation with SEPA (and others where appropriate) regarding:
 - i. a detailed restoration plan and aftercare scheme for the extraction area hereby approved to include:
 - ii. the arrangement for the removal of all buildings and structures (both mobile and fixed plant, etc.) from each area;
 - iii. details of the finalised landform to be provided on site, including all water/pond areas and all areas of site mounding or moulding 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) etc. to describe the finalised landform;
 - iv. the provisions for re-instatement for after-uses to include woodland, wetlands and habitat creation as proposed within the EIAR including sections and finished ground levels to show the finished profile of the re-instated ground;
 - v. landscaping and planting/seeding information associated with the proposed formation of all identified habitats;
 - vi. the arrangements for the monitoring and aftercare scheme (see Condition

below) which shall specify all the steps to be taken and the time periods within which the steps will be taken; and thereafter, the restoration of the site and aftercare shall be carried out in accordance with the approved details. For the avoidance of doubt the restoration of phase 1 shall take place during phase 3 of the development and continue on a progressive basis throughout the lifetime of the development hereby approved.

Reason: To ensure that both the processing and extraction sites are appropriately restored in the interests of the protection of the environment and that the final landform and uses are in keeping with the existing amenities and appearance of the surrounding area, as these details are currently lacking from the application.

15. Following restoration works (whether for each individual Phase or upon completion of Phase 3, the approved restoration works within the site (Condition 14) shall be subject to a monitoring and aftercare scheme for a period of 5 years, the method statement and specification for which shall be submitted to and approved by the Council, as Planning Authority in consultation with SEPA and others as appropriate not less than 2 months prior to undertaking the restoration works. Thereafter, the agreed scheme shall be implemented in accordance with the agreed details and 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.

Reason: In order to monitor the condition of the site after restoration.

16. The oil storage tanks shall be protected as follows:
- i. The oil storage tank to be located on an impervious base and surrounded by the bund wall. The capacity of the bunded area should be equal to 110% of the storage tank volume.
 - ii. All valves and couplings to the tank should be included in the bunded area. Any delivery hose should be fitted with trigger type sprung handles and hung back in the bunded area after use.
 - iii. All vent pipes must be designed and positioned so that any overflow, through overfilling the tank, is discharged into the bunded area.
 - iv. All surface water or other water which accumulates within the bund should be removed by a manually controlled positive lift pump (e.g. a semi rotary hand pump) and not a gravity drain.
 - v. All drainage from the bunded area should be treated by an oil interceptor device, the design of which is approved by the Council, as planning authority in consultation with SEPA.

Reason: In the interests of amenity and public health so as to ensure that there is no contamination of adjoining land or watercourses arising out of accidental discharges or damage to the tanks.

17. All quarry operations shall be carried out and permitted between 0700 - 1800, Monday to Friday, and 0800 - 1300, Saturdays and at no other times without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

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

18. During the normal daytime working hours defined in condition 17, the free-field Equivalent Continuous Noise Level (LAeq,1h) for the period, excluding bund formation with soil and overburden handling activity, shall not exceed 45dB(A), as determined at any existing noise sensitive property.

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

19. Noise from soil and overburden handling and other works in connection with bund formation at the development shall not exceed the free-field Equivalent Continuous Noise level (LAeq,1h) 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.

20. 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 therefore 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.

21. For the avoidance of doubt the soil bund shall not exceed 3m in height at any point.

Reason: As no such details are included with the application and in order to ensure an acceptable form of development that does not adversely impact on the character of the surrounding area.

Reason(s) for Decision

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

On the basis that the proposal is for an extension of an existing quarry, would contribute towards the long-term planning for the provision of construction aggregates in Moray and is in a good, accessible location which is well screened and not considered to have a significant impact on the special qualities of the Lossiemouth to Portgordon Coast Special Landscape Area (SLA), the proposed development is an

acceptable departure from Policy EP3. Notwithstanding the deviation from policy EP3, subject to conditions as recommended, the siting, layout and restoration of the development are considered acceptable and otherwise accord with the development plan with no unacceptable or significant adverse effect upon the surrounding environment and there are no material considerations that indicate otherwise.

Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority having taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed extraction and that its location is appropriate in local and national planning policy terms.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts upon the, biodiversity (wildlife and ecology), hydrology and hydrogeology, cultural heritage (archaeology), noise, air and climate (dust), transportation, aviation and woodland. With progressive site restoration and woodland re-planting, there would also be positive impacts in terms of ecology and biodiversity.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent.

The Council is satisfied that this reasoned conclusion is up-to-date.

Description of the Development

The Development comprises a mineral extraction area to be used which represents an extension to the existing operation at Lossie Forrest Quarry, within the administrative area of Moray Council, all as specified in the application and accompanying Environmental Impact Assessment Report submitted on 13 October 2021. This is subject to the conditions as contained within the decision notice granting planning permission for the development.

The principle components of the proposal comprise:

- The extension of the existing quarry by 15ha and a period of 15 years for operations in this area.
- Cobbles and sand are extracted at the rate of approximately 40,000 tonnes per annum.
- Extraction takes place below the water table at a depth of 1.5m AOD.
- The extraction area would comprise 3 phases each expected to last 5 years and yielding approximately 200000 tonnes of material.
- The proposed extension will be restored on a progressive basis. Phase 1 of the proposed extension will be restored during Phase 3.
- Restoration of the existing quarry will take place in accordance with the existing permission (10/01606/MIN) for that part of the site once extraction is complete and

stockpiles have been removed. It is anticipated that this will be in Phase 1 of the proposed extension.

List of Informatives:

ABERDEENSHIRE COUNCIL ARCHAEOLOGY SERVICE, has commented that:-

For the avoidance of doubt the works shall comprise an archaeological metal detecting survey; a post felling field survey and ideally pre felling field survey, and a watching brief over ground-breaking works.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to commencing any works on the B9103 the requirement Technical Approval or Roads Construction Consent must be confirmed with the Roads Authority.

Resurfacing of the B9103 shall be completed in Hot Rolled Asphalt (HRA).

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

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.

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 a road opening permit in accordance with the Roads (Scotland) Act 1984.

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 applicant shall be responsible for ensuring that their operations do not result in loose materials or water being deposited onto the public road.

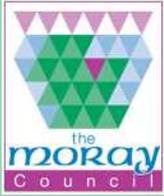
THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Details of general regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. The applicant should quantify the groundwater abstraction in order to determine the level of Controlled Activity Regulation (CAR) authorisation that may be required. Further details are available in The CAR Practical Guide available at www.sepa.org.uk/media/34761/car_a_practical_guide.pdf

The restoration proposals should aim to produce a mosaic of habitats of wetland, dry and wet species rich grasslands, and coastal/wet woodland and scrub and using the soils previously stored will give a good seed source for the area.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

Reference No. Version No.	Title/Description
UG613/PA/F/01	Site location plan
UG613/PA/F/02	Location plan
UG613/PA/F/03	Phase 1
UG613/PA/F/04	Phase 2
UG613/PA/F/05	Phase 3
UG613/PA/F/06	Cross sections



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
21/01615/EIA

Site Address:
Lossie Forest Quarry
Moray

Applicant Name:
Tennants (Elgin) Ltd

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Location Plan



Site Location



Site layout



Photo Locations



Map Description: a Description of a Moray Council Map

Scale: 1:33,163 @ A4



Photo 1



Photo 2



Photo 3



Photo 4



PLANNING APPLICATION: 21/01615/EIA

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

THE PROPOSAL

- This application seeks permission of the extension of the existing quarry by 15ha and a period of 15 years for extractions in the extended area.
- Cobbles and sand will be extracted at the rate of approximately 40,000 tonnes per annum.
- The cobbles and sand are extracted by an excavator, then transported to the processing plant by loading shovel/dump truck and dry screened to split the cobbles and sand.
- The existing office, weighbridge and mobile processing unit (screening/grading only) and oil tanks will also be moved from the current excavation area to the application site.
- A new section of track will be formed within the extended area to provide access into the working area. This will join an existing track that runs along the western boundary of the site.
- A soil bund will be formed in the southern part of the site that will move east as the site is worked. This will serve to mitigate the impacts of noise from the quarry. It will have a maximum height of 3m.
- The extraction area would comprise 3 phases, each expected to last 5 years and yielding approximately 200000 tonnes of material.
- Extraction takes place below the water table at a depth of 1.5m AOD.
- Operation hours would be 7am–6pm on weekdays and 8am-1pm on Saturdays with no Sunday working. This is a change from the operating hours of the current quarry which are 7am-7pm on week days and 7am-1pm on Saturdays.
- The proposed extension will be restored on a progressive basis. Phase 1 of the proposed extension will be restored during Phase 3.
- Restoration of the existing quarry will take place in accordance with the existing permission (10/01606/MIN) for that part of the site once extraction is complete and stockpiles have been removed. While permission is in place for extraction at the existing site until October 2025 the applicant has confirmed that less than one year's supply remains and it is anticipated that restoration of this area will be in Phase 1 of the proposed extension.
- The application is an EIA development and is supported by an Environmental Impact Assessment Report (EIAR) which includes a Dust Management Plan, Extractive Waste Management Plan, Transport Statement, Noise Impact Assessment along with a Planning Statement and PAC Report.

THE SITE

- The site is an area of coniferous woodland with a small area of broadleaved woodland to the north.
- The restored part of the quarry is immediately to the north and the current working area is to the north east.
- There are existing tracks to the west and south.
- There is extensive tree cover around the site.
- The site is served by an existing access which joins the public road (B9103) approx. 2km to the south west of the site at Inchbroom Farm.
- There are wartime installations along the coast which are scheduled ancient monuments. The closest is approximately 375m to the north of the application site.
- The site is not covered by any natural heritage designation but NatureScot have identified potential connectivity between the site and the Spey Bay Special Area of Conservation (SAC) and Spey Bay Site of Special Scientific Interest (SSSI). The site is on the National Forest Inventory as conifer woodland.
- A portion of the northern part of the application (approx. 2.25ha of 15ha total) is covered by the Lossiemouth to Portgordon Special Landscape Area as identified in the Moray Local Development Plan 2020.

HISTORY

21/00318/PAN - South west extension of cobble and sand quarry comprising circa 15 hectares – reported to Committee on 18 May 2021. Members requested that the first 15m of the access track be surfaced. A virtual public event was held on 29 March 2021 and the information was available for inspection online for a further period of 21 days. One person attended the public event but no comments were received.

20/01754/SCO – Extraction of cobbles - Scoping Opinion relating to the current proposal. Issues and impacts to be addressed in EIAR - 27.01.2021

20/01427/SCN - Extraction of cobbles – Screening Opinion confirming that this is an EIA development - 20.11.2020.

10/01606/MIN - Extend existing shingle quarry and extend by 4 years the period of planning consent for the existing shingle quarry (consent ref 01/00526/MIN) granted 28.02.2011 - Planning Application to allow the original quarry area to be worked for a further 4 years and open up the current working area. The original area has now been restored. Permission for the current working area runs until 30 October 2025 - determined - 28.02.2011.

01/00526/MIN - Proposed commercial shingle extraction off B9103 nr Arthur's Bridge – Original planning permission for the site covering the now restored area only - permission granted 12.11.2001.

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

The application was advertised in the Northern Scot and Edinburgh Gazette as an EIA development and for Neighbour Notification, as a departure from the development plan and a Schedule 3 development.

CONSULTATIONS

Strategic Planning and Development: Approximately 2.25ha of the northern area of the proposed extension site is located within the Lossiemouth to Portgordon Coast Special Landscape Area (SLA), and the proposal does not comply with any of the acceptable uses and therefore is a departure from Policy EP3.

However, on the basis that the proposal is for an extension of an existing quarry, would contribute towards the long-term planning for the provision of construction aggregates in Moray and is in a good, accessible location which is well screened and not considered to have a significant impact on the special qualities of the designated area, the proposed development is an acceptable departure from Policy EP3 and complies with Policies PP1, PP3, DP5, DP10, EP2, EP7, EP12 and EP16, subject to the provision of information to the satisfaction of Environmental Health (Moray Council) and the Council's Archaeologist, the proposal complies with Policies PP2, DP1, EP8 and EP14.

N.B as is noted below that Environmental Health and Archaeology have no outstanding objections.

Environmental Health: No objection subject to conditions relating to noise and operating hours and dust.

Moray Access Manager: No objection.

Environmental Protection: No objection.

Contaminated Land: No objection.

Moray Flood Risk Management: No objection.

Transportation: No objection subject to conditions to ensure that the access to the public road is improved to an acceptable standard and that sufficient visibility is maintained at the access.

Private Water Supplies: No objection.

Archaeology: No objection following the submission of additional information. A condition is recommended requiring a programme of archaeological works.

Scottish Water: No objection.

Historic Environment Scotland: No objection.

MOD: No objection.

SEPA: No objection subject to a condition requiring the submission of a surface water management plan for the site.

NatureScot: No objection. For interests, within the remit of NatureScot, we agree with the topics covered by the report and the evaluation of the significance of environmental effects. We consider the proposed mitigation measures to be appropriate and sufficient.

The proposal site lies within 250m of the following protected areas:

- Lower River Spey - Spey Bay Special Area of Conservation (SAC)
- Spey Bay Site of Special Scientific Interest (SSSI)

There is potential for working of the proposed quarry extension area in Lossie Forest to impact on the hydrology of the area and thus the natural habitats within the section of the SAC/SSSI that lies 250m to the north.

The status of the SAC means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, the Moray Council is required to consider the effect of the proposal on the SAC before it can be consented (commonly known as Habitats Regulations Appraisal). The proposal is not directly connected with or necessary for the conservation management of the SAC, hence further consideration is required.

The EIAR considers potential impacts of the proposal on surface water and groundwater and hence potential impacts on the above protected areas. The report concludes that there will be no adverse impacts on the interests of the protected areas.

Adherence to best practice and other relevant guidance and the development of a Water Management Plan will ensure there is no adverse impact on hydrological/hydrogeological interests as a result of pollution (to include sediment).

We agree with the findings of the report in this respect and advise that the proposal will not adversely impact on the integrity of any protected area.

N.B *Appropriate Assessment by Moray Council has concluded that there will be no adverse impact on the integrity of the site as a result of the development.*

Scottish Forestry: No objection following clarification of the compensatory planting proposals. A condition requiring a Management Plan for the compensatory planting is recommended.

HSE (Quarries): No response at time of writing.

Innes Community Council: No response at time of writing.

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).

[REDACTED]
[REDACTED]
[REDACTED]

Issue: The continued and increased use of the access track from the public road due the impact of dust, vibration, noise and speed.

Comments: The proposed extension will essentially replace the existing quarry operations with the existing working area being restored during phase 1 of the proposed works. The level of vehicle movements (approximately 14 per day) associated with the extension is the same as at present. There may be a short period of increased use while the current area is worked out and restored and the proposed area is brought into operation but the existing quarry site will be restored during phase 1 of the current development. The track is a private way and any damage to adjoining houses is a civil matter between the relevant parties. Similarly poor driving behaviour is a matter for the operator of the site.

Issue: The use of the access track by quarry vehicles inhibits its use for recreational purposes.

Comments: The use of this track by the quarry is well established and as is noted above there will be no significant long term increase in the number users of the track. The Access Manager has no objection.

Issue: The condition of the access track.

Comments: The track is a private road and its condition is a matter for the owners.

Issue: The impact on wildlife, flora and fauna.

Comments: This proposal has been subject to an EIA which included assessment of the impact on protected species and their habitats. Surveys found one tree with bat roost potential which will be retained and a squirrel drey which is to be removed. This will require a licence from NatureScot. Mitigation measures are to be put in place including the retention of woodland strips to the south and west which secure connectivity for squirrels and other animals.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main issues are considered below:

Siting & Compliance with Mineral Policy (PP1, PP2 PP3, DP1, DP10, EP12 & EP16)

Policy DP10 (b) is supportive of the extensions of existing mineral sites which contribute to the maintenance of at least a 10 year supply of construction aggregates in Moray subject to meeting the terms of policy DP1 and all other relevant policies. Proposals must satisfactorily mitigate impacts and provide an Extractive Waste Management Plan. Policy DP10 (c) requires the submission of a detailed restoration plan which will ensure that the site is restored to a high standard at the earliest opportunity.

The proposal is for the extension of an existing quarry to allow operations to continue for a further 15 years. The presence of the existing quarry operation provides a locational

justification for this development. The expansion will help to secure the supply of construction aggregates in Moray and contribute to the ongoing success of an established local business. The site is accessible and well serviced. It is set back from the protected wartime structures on the coast and screened from general view by extensive tree cover. It will help to support sustainable economic growth in line with the Moray Economic Strategy. The development will result in the removal of trees but as is noted below this is considered to be justifiable in relation to policy EP7 and significant compensatory planting is proposed. It is suitably serviced and as is addressed in more detail below, impacts in relation to trees, protected species, noise and access can be satisfactorily mitigated. A Dust Management Plan has also been provided to ensure that this element does not lead to any adverse impacts on the surrounding area. An Extractive Waste Management Plan has been submitted in support of the application. This will ensure that soil and other by-products are suitably managed. Proposals for restoration have been provided which will see each phase of the works restored on a progressive programme. No bond is in place for the existing quarry and it is not recommended in this case as the site is owned by Scottish Forestry and the operators have an obligation to put an appropriate restoration guarantee in place under the terms of the agreement to use the site. A condition is recommended requiring evidence of this bond to be provided. It is recommended that a detailed scheme for the restoration works is sought by condition. The site contributes to the ongoing supply of building materials in Moray and all impacts can be suitably mitigated. The proposals accord with policies PP1, PP2, DP1, DP10 and EP16.

Special Landscape Area (EP3)

The application site extends to 15ha of which 2.25ha in the northern part of the site falls within the Lossiemouth to Portgordon Coast Special Landscape Area (SLA). It should be noted that both the restored quarry area and the current operational quarry area are wholly within the SLA. Policy EP3 only supports proposals in rural SLAs such as this if it involves the extension or change of use of an existing building or relates to distilling, agricultural, forestry or fishing. The current proposal does not meet any of these requirements and is therefore a departure from policy EP3. However, only 2.25ha of the 15ha application site is within the SLA and the site is set back from key views along the coast and will be largely screened by heavy tree cover. The development represents a proportionate extension to an existing quarry operation that otherwise accords with policy. It is therefore considered to be an acceptable departure from policy EP3.

Impact on Trees (EP7)

The site is owned by Forestry Scotland and is on the National Forestry Inventory. At present Lossie Forest does not meet the UK Woodland Assurance Standard in terms of species composition and diversity or age diversity. A Long Term Forest Plan (LTFP) is in place for the forest which includes proposals to fell the application site within the next 10-20 years and promote natural regeneration of Scots Pine and native broadleaves.

The proposal includes the removal of 12.02 ha of woodland of which 10.85 ha is mature commercial forestry. The remaining 1.17ha is young woodland. Part of the site will be replanted as part of the restoration of the site but part of it will remain open as wetland areas. Compensatory planting covering 13.62 ha is proposed. This will consist of 2.27 ha on site between phases, 1.54 ha for restoration, 2.91ha offsite on the current quarry location, 6.9ha off-site, 1.5km away at Milltown Airfield. Planting would consist of a mixture of commercial timber species and native broadleaves. While the proposal relates principally to the felling of commercial forestry it is considered to be woodland removal as the replanting period exceeds the normal forest restocking period of up to 5 years. The Control of Woodland Removal Policy presumes against the removal of woodland unless it

would achieve significant and clearly defined additional public benefits and recognises that compensatory planting could form part of that assessment. In this instance the proposal will bring economic benefits as it will secure the future of an established business. Furthermore, growing conditions are more favourable at Milltown Airfield and the net output per hectare will be treble that on the application site. The mix of species will also serve to aid Lossie Forest meet its targets for native woodland and will increase biodiversity in the forest. Scottish Forestry support the proposals and consider that they are in line with the Control of Woodland Removal Policy. Given the economic justification and the benefits of the proposed compensatory planting in terms of output and biodiversity the proposals are considered to comply with policy EP7. A condition is recommended to ensure that full details of all tree planting and adequate maintenance measures are put in place.

Natural Heritage (EP1, EP2 & EP12)

An Ecological Impact Assessment (EclA) has been provided as part of the application. The application site is not covered by any natural heritage designations however it is within 250m of the Lower River Spey - Spey Bay Special Area of Conservation (SAC) and the Spey Bay Site of Special Scientific Interest (SSSI). The development will impact on the hydrology of the site and the wider area which could have implications for the designated sites. Hydrology and hydrogeology are fully assessed as part of the EclA. Both SEPA and NatureScot are content with the findings of this section of the report, but SEPA recommend a condition requiring the provision of a Water Management Plan for approval. Given the potential impact on the SAC and the fact that the development is not directly related to the conservation management of the SAC Appropriate Assessment was required under the *Conservation (Natural Habitats, &c.) Regulations 1994*. The EclA identifies the following points in relation to the likely impact of the development:

- no surface hydrological connectivity exists between the proposal site and the SAC/SSSI;
- the relatively shallow depth of the maximum extraction depth (1.5mAOD) means that the impact upon the groundwater table is likely to be restricted to the immediate vicinity of the area of excavation and within the proposal site;
- this limited extent of impacts on groundwater and the distance between the site and the SAC/SSSI mean that adverse effects on the protected areas are unlikely;
- standing water within the restored area has not been impacted by the operational quarry immediately to the north east – this supports the assessment that the impacts on groundwater as a result of the proposal would be restricted to the immediate area of the site.

Based on this information and the advice from NatureScot and SEPA the Appropriate Assessment concluded that the development will not adversely impact the integrity of the Lower River Spey to Spey Bay SAC or the Spey Bay Site SSSI. Subject to the recommended condition relating to the Water Management Plan the proposals are considered to comply with policy EP1 (a).

A full ecological survey of the site was carried out and found it had potential for providing foraging and habitat for a number of species notably red squirrel, bats and nesting birds. The survey found one squirrel drey that will have to be removed to make way for the development. The removal of this will require a licence from NatureScot. NatureScot can grant a licence provided that the activity will contribute to significant social, economic or environmental benefit, there is no satisfactory alternative and there is no significant negative impact on the conservation status of the species. In this instance there is no alternative solution. Furthermore, NatureScot advise that the development would be

considered to have significant economic benefits and would have no significant adverse impact on the conservation status of the species. It is therefore concluded that a licence is likely to be granted (see **Appendix 2**). One tree with bat roost potential has been identified but this will be retained and a 5m buffer from excavation works placed around it. The impact on nesting birds will be minimised by carrying out tree felling outwith the bird breeding season or having an ecologist on site to make checks. The EclA also recommends that checks of dense vegetation takes place for any concealed badger sets or similar, exploratory excavation pits must not be left open and shallow edging must be provided to allow escape and all lighting must be fitted with shades to prevent light spillage outwith the working area. While a large area of trees will be removed as part of the development, connectivity will be retained by means of the retained woodland to the west and the south. The proposals meets the tests for granting a licence in relation to red squirrels and will not significantly impact on other protected species and the proposal therefore accords with policy EP1 (c).

The EclA recommends that a CEMP is put in place to ensure all environmental activities are properly controlled and overseen. A condition is recommended to ensure that the CEMP is submitted for approval and agreed in advance of development commencing on site. Subject to the recommended conditions the proposal complies with the relevant sections of policy EP1.

The proposed compensatory planting and restoration of the site which includes the creation of wet land areas will lead to an overall enhancement of biodiversity. It will provide more foraging and sheltering opportunities and bring a wider range of species into the site. This will be a significant improvement on the existing site which, as is noted above, currently has poor species and age diversity. The proposals will enhance the biodiversity value of the site in accordance with policy EP2.

Noise (EP14)

A detailed Noise Impact Assessment (NIA) has been provided as part of the EIAR. A bund of soil with a maximum height of 3m will be formed along the southern boundary of the site to mitigate the impact of noise from the development. This will move along the site as development progresses. The NIA assess the impacts of noise associated with the quarry on the nearest noise sensitive receptors which are a house 215m to the east of the site, a house 670m to the south west and the public footpath to the west. The report concludes that predicted noise levels will not exceed acceptable levels at the nearest noise sensitive receptors. The Environmental Health Manager is content with the findings of the report and has no objection subject to conditions to ensure that the predicted noise levels are not exceeded. A further condition is recommended limiting operational hours to 7am-6pm on weekdays and 8am-1pm on Saturdays with no Sunday working. This is a change from the working hours of the current operation which are 7am-7pm on weekdays and 7am-1pm on a Saturday. The applicant has agreed to these operational hours which will allow them to fit in with the standard working hours of the construction industry which they supply. The slightly reduced hours will be of some benefit to reduce the impact on amenity of the surrounding area. The recommended conditions will ensure that the development does not result in significant noise pollution and complies with policy EP14 (a).

Archaeology (EP8)

There are no listed or scheduled structures within the application site boundary. The wartime coastal defences to the north of the site are scheduled monuments but these are separated from the current site by the existing quarry and substantial tree cover. The

development will not adversely impact on the setting of these structures. Historic Environment Scotland have no objection to the proposal.

The site is an area of known archaeology. It is recognised that the heavy tree cover may have led to damage of archaeological remains by roots etc. but there is potential for features to survive at lower depths. Finds in the vicinity indicate the possibility of prehistoric activity in the area and there is evidence of medieval cultivation and settlement on the site. There are also World War Two defences in the form of two anti-landing ditches on the site. These are part of a series of ditches and other anti-landing defences formed to protect Milltown Airfield. The two that cross the application site would be largely obliterated by the development.

A detailed programme of archaeological works is proposed including metal detecting, a field survey and a watching brief across the whole site. Where necessary, post excavation analysis will also take place. The Council's Archaeologist has no objection subject to a condition to ensure that an acceptable Written Scheme of Investigation (WSI) is provided and carried out. Subject to condition the proposal complies with policy EP8 (b).

Access (DP1)

The site is accessed via an existing track which serves the current quarry. The track joins the public road to the south west of the application at Inchbroom Farm. The level of trips associated with the proposed extension will be the same (approximately 14 trips per day) as those associated with the current operations. The proposal will replace the current working area with restoration of the current operational area anticipated to be carried out during phase 1 of the proposed development. Therefore there will be no long term increase in the level of traffic associated with the development but the development will increase the period over which this activity will occur. The access arrangements will be unchanged from those operating at present but it is noted that the condition of the access to the public road has deteriorated during the lifetime of the existing quarry with particular concern regarding the lack of adequate drainage and the build up of loose material at the junction. To address this matter, the Transportation Section has recommended a condition to ensure that the access to the public road is upgraded to an acceptable standard; this includes the provision of suitable drainage, measures to prevent loose material building up at the access, proposals to remove or improve the existing left turn diverge and the resurfacing of part of the public road. A further condition to ensure adequate visibility is maintained is also recommended. The recommended conditions will ensure safe access to the public road and address any adverse impacts on the public road network. Subject to these conditions the proposals accord with policy DP1 (ii) (a & b).

Recommendation

The application is for the extension of an existing quarry to secure supplies for a further 15 years. The development is appropriately sited alongside an existing operation in a location that is well screened and easily accessible. The proposal will contribute to the supply of cobbles and sand in Moray and help support a successful local business. The impacts of the development have been fully assessed and where necessary mitigation is recommended. The proposal is a minor departure from policy in that a portion of the site is within the SLA but given that it is an extension to an existing business (fully located within the SLA) and that the site is well screened and away from key coastal views this is considered to be acceptable. The proposal otherwise accords with policy and subject to the conditions set out in the papers it is recommended that planning permission is granted.

REASON(S) FOR DECISION

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

On the basis that the proposal is for an extension of an existing quarry, would contribute towards the long-term planning for the provision of construction aggregates in Moray and is in a good, accessible location which is well screened and not considered to have a significant impact on the special qualities of the Lossiemouth to Portgordon Coast Special Landscape Area (SLA), the proposed development is an acceptable departure from Policy EP3. Notwithstanding the deviation from policy EP3, subject to conditions as recommended, the siting, layout and restoration of the development are considered acceptable and otherwise accord with the development plan with no unacceptable or significant adverse effect upon the surrounding environment and there are no material considerations that indicate otherwise.

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APPENDIX 1

POLICY

Proposed 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.

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, 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.

DP10 MINERALS

a) Safeguarding Mineral Reserves

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

b) Mineral Operations

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/sites.
- Re-opening of a dormant quarry.
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

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

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond.

Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased. Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

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.

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.

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.

21/01615/EIA

Appendix 2

The Council, as competent authority is required to assessed the planning application against the following three tests set out in the Habitats Regulations 1994 (as amended) and to satisfy itself that all three can be met prior to granting planning permission:

European Protected Species - Bats (Reg. 44(2) of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) tests 1, 2 & 3.

Test 1 - Licensable purpose (justification for preserving public health, public safety and public interest): The proposal involves the extension to an existing quarry which will have significant economic benefits. All impacts in relation to trees, hydrology, noise and access have been fully assessed as part of the planning application, the proposal will not result in adverse impacts upon public health, safety or interest. The proposal is a minor departure from the development plan in that it is partially located within the Lossiemouth to Portgordon Coast Special Landscape Area (SLA) but given the location and history of the site this is considered to be acceptable and the proposal otherwise accords with the development plan. Test 1 is met.

Test 2 - No satisfactory alternative: Permission is sought in this case for the extension of an existing quarry. A locational justification is provided in that the site is adjacent to the existing quarry where less than 1 year's supply remains.

Test 3 - Favourable Conservation Status (action will not be detrimental to the maintenance of the EPS population): NatureScot has reviewed the submitted bat survey report/mitigation and is satisfied that there will be no negative overall effect on this particular bat species population at local level. Test 3 is complied with.