

**19/00100/APP**  
**7th February 2019**

**Application under Section 42 to vary conditions 1, 3, 4, 5, 7, 8, 9, 10, 26, 27, 28, 30 and 31 of planning consent 14/01486/APP altering the phasing plans delivery of affordable units (increased by 2 units) delivery of accessible units (increased by 1 unit) site layout details (altering the position of a SUDS basin landscaping and access/footpaths) which increases the total number of residential units to 265 (from 261) at R1 Sunbank Lossiemouth Moray  
for Tulloch Of Cummingston Ltd**

---

**Comments:**

- A SITE VISIT has been carried out.
- Application is major development as defined under the Hierarchy Regulations 2009 for a development with more than 50 houses, and the site area exceeds 2ha.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- No representations received.

**Procedure:**

- A variation to the existing Section 75 legal agreement for Sunbank 14/01486/APP would be required prior to issue of any decision.

**Recommendation**

**Grant Planning Permission - Subject To the Following:-**

**Conditions/Reasons**

1. As part of the permission hereby granted, the 74 affordable house units (as identified on the 02 Phasing Plan Version J) shall only be used for affordable housing purposes in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord to enable the long term delivery of affordable housing on this site; and no house development shall commence beyond Phase 2 until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable house units hereby approved shall be submitted to and approved in writing by the Council as Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details.

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

2. No works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the Aberdeenshire Council Archaeology Service, and approved by the Moray Council (as Planning Authority). Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the Aberdeenshire Council Archaeology Service.

**Reason** - To safeguard and record the archaeological potential of the site.

3. Prior to the commencement of works a detailed plan of public access across the site (during construction and upon completion) must be submitted to and approved by the Council (as Planning Authority) in consultation with the Moray Access Manager. This must show:
  - a) Details of any existing paths within the site;
  - b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
  - c) All paths and tracks proposed for construction, for use by walkers, riders, cyclists, all ability users, etc. inclusive of the proposed link from the site towards Lossiemouth High School;
  - d) Any diversions or paths - temporary or permanent - proposed for the purposes of the development and;
  - e) Details of how public access and movement through the site will occur between the different approved Phases 1 - 11 of the development.

The development must thereafter be carried out strictly in accordance with the approved public access plan unless otherwise agreed in writing with the Council as Planning Authority.

**Reason** - In order to ensure public access is maintained during and after the construction period.

4. Acoustically attenuated trickle ventilators shall be provided in the western, northern and southern elevations of lounge and bedroom apartments on plots 1 to 16, 81 to 93, and 94 to 98. They should have an element normalised level difference  $D_{n,e}$  of at least 39dB in the 500Hz octave band. If two trickle ventilators are to be installed in a given room, the  $D_{n,e}$  should be 42dB, and should four trickle ventilators be installed the  $D_{n,e}$  should be 45dB, as stated in accordance with Section 4.12 of the noise impact assessment supporting document dated 28th January 2018, titled "Report on Air Traffic Noise For Tulloch of Cummingston At Sunbank, Lossiemouth, Moray" and provided by Charlie

Fleming Associates Limited, Acoustic Consultants, 5 Saltpans, Charlestown, Fife KY11 3EB

The above mitigation, in combination with the overall building insulation, shall ensure that internal noise levels in the lounge and bedroom apartments at the development associated with external aircraft noise shall not exceed a sound pressure level L A eq 16 hour (0700 to 2300 hours) of 35 dB, as determined with windows closed and trickle ventilators open.

**Reason** - In order to ensure adequate noise insulation is provided for residences closest to the airbase.

5. Unless otherwise agreed in writing with the Council (as Planning Authority), double glazed external windows installed in the western, northern and southern elevations of lounge and bedroom apartments on plots 1 to 16, 81 to 93, and 94 to 98 shall consist of 4mm and 8mm thick panes of normal float glass separated by a 12mm cavity. The specification and acoustic performance shall be in accordance with Section 4.13 of the noise impact assessment supporting document dated 28th January 2018, titled "Report on Air Traffic Noise For Tulloch of Cummingston At Sunbank, Lossiemouth, Moray", and provided by Charlie Fleming Associates Limited, Acoustic Consultants, 5 Saltpans, Charlestown, Fife KY11 3EB.

**Reason** - In order to ensure adequate noise insulation is provided for residences closest to the airbase.

6. Beyond the noise insulation requirements specified in conditions 4 and 5 above, prior to development commencing a further scheme of aircraft noise mitigation for the residences and commercial units must be submitted to and approved by the Council as Planning Authority (in consultation with the Ministry of Defence) incorporating the following noise insulation measures in all buildings;-
  - a) Acoustic lagging in the roof space,
  - b) Installation of an acoustic double glazing system which should be at least 6.4mm PVB (polyvinyl butyral) laminated for individual panes (12- 10mm together),
  - c) Installation of sound attenuating ventilation units (to provide a fresh air flow to the property whilst allowing the glazing to remain closed and provide maximum attenuation of the noise).

The development must thereafter be carried out strictly in accordance with the scheme of aircraft noise mitigation approved and be retained in perpetuity.

**Reason** - In order to ensure adequate noise insulation is provided for residences closest to the airbase.

7. Prior to the commencement of development a scaled plan (1:100) must be submitted for approval by the Council as Planning Authority in consultation with the Roads Authority which details the parking provision and allocation of spaces in accordance with Moray Council Parking Standards (including disabled, motorcycle and cycle parking provision) for the retail units and also details of the provision for deliveries and servicing of the retail units. The approved parking/access

arrangements shall then be provided prior to any of the retail units coming into operation.

**Reason** - To ensure acceptable form of development and confirmation of parking and servicing arrangements.

8. The development shall be completed in accordance with the approved phasing plans (Drawings 02 Phasing Plan Rev J) unless otherwise agreed in writing with the Council as Planning Authority.

**Reason** - To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

9. No more than 24 housing units (4 existing + 20 new) in Phase 1 shall take access from Fisher Place until the approved access is provided from the B9135 and a connection has been made and opened to the public between the B9135 and Phases 1 and 2 as shown on Drawing 02 Phasing Plan Rev J.

**Reason** - To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

10. No more than 23 housing units (5 existing + 18 new) in Phase 2 shall take access from Halliman Way until the approved access is provided from the B9135 and a connection has been made and opened to the public between B9135 as shown on Drawing 02 Phasing Plan Rev J.

**Reason** - To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

11. Phase 1 and Phase 2 of the development shall not be connected via the proposed development site roads until the approved access is provided from the B9135 and a connection has been made and opened to the public between the B9135 as shown on Drawing 02 Phasing Plan Rev J.

**Reason** - To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

12. Prior to commencement of construction on the 6th housing unit within Phase 1 the improvement works identified on plans at the junction of Coularbank Road with the A941 shall be completed to the satisfaction of the Council as Planning Authority in consultation with the Roads Authority.

**Reason** - In the interests of road capacity and the provision of off-site infrastructure required to support the development.

13. No part of the development taking access from the B9135 shall be connected to Boyd Anderson Drive via either Halliman Way or Fisher Place until evidence has been provided that the statutory process for the implementation of traffic calming on Boyd Anderson Drive has been concluded and any works required have been

approved and delivered to the satisfaction of Council as Planning Authority in consultation with the Roads Authority.

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

14. Construction traffic movements within the site shall accord with the principles set out within the approved Construction Traffic Management Plan unless agreed otherwise in writing with the Council as Planning Authority in consultation with the Roads Authority.

**Reason** - In the interests of road safety for all road users.

15. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

16. Parking provision shall be provided in accordance with Moray Council Parking Standards as follows:
- a) 2 spaces up to 3 bedrooms
  - b) 3 spaces for 4 or more bedrooms
  - c) 1.5 spaces per flat (Private up to 2 bedrooms)
  - d) 1 space per flat (Affordable up to 2 bedrooms)

**Reason** - To ensure there is acceptable parking provision within the development.

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

**Reason** - To ensure an acceptable form of development, safeguarding the public road in the interests of road safety.

18. Housing units requiring 2 or more parking spaces shall have a driveway length of 6.0m minimum in front of any garage to permit a second car to park, unless alternative parking arrangements are submitted to and given prior written approval by the Council as Planning Authority (in consultation with Roads Authority). No part of the driveway shall be included in the public road.

**Reason** - To ensure an acceptable form of development.

19. Off-Street parking provision shall be outwith visibility splays.

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

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

**Reason** - To ensure an acceptable form of development.

21. Unless otherwise agreed with the Council as Planning Authority prior to commencement of development, the developer shall provide to the Council as Planning Authority:
- a) Acceptance in writing from Scottish Water that they shall adopt and maintain the surface water sewers and detention basins.
  - b) Acceptance in writing from The Moray Council as Roads Authority that they shall adopt and maintain the roadside filtration trenches.

**Reason** - To ensure the surface water assets are properly maintained to an acceptable standard and to clarify where responsibility for them lies.

22. Unless otherwise agreed in writing with the Moray Council (in consultation with SEPA):-
- a) A minimum 600mm freeboard is maintained between the 1 in 200 year plus climate change water level and finished floor levels (unless otherwise agreed by the Moray Flood Risk Management Team).
  - b) Watercourse crossings are appropriately designed to be able to convey the 1 in 200 years plus climate change flow without increasing flood risk elsewhere.
  - c) If applicable, further information is submitted to and approved by the Moray Council (in consultation with SEPA) to demonstrate that any re- profiling of watercourse banks, or land adjacent to the banks, would not increase flood risk elsewhere.

**Reason** - To protect people and property from flood risk.

23. No development shall commence on site until a site specific Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Council as Planning Authority in consultation with SEPA (and SNH or other agencies as appropriate). All works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Council as Planning Authority.

**Reason** - In order to minimise the impacts of necessary demolition/construction works on the environment.

24. No development shall commence until details of arrangements for the time-scale(s) for all new planting to be undertaken together with the arrangements for the long term maintenance of all proposed landscaping arrangements have been submitted to and approved by the Council as Planning Authority. Thereafter, the landscaping planting arrangements and maintenance arrangements shall be carried out in accordance with the approved details.

**Reason** - In order that detailed consideration can be given to the landscaping arrangements and to ensure ongoing maintenance is in place for the landscaped areas of the site.

25. In relation to the approved Landscape Scheme details, any trees or shrubs which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season

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

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

26. Prior to the commencement of development, details of an equipped play area (as identified within the Phase 6 of the approved Phasing Plan) including the means of separation from vehicular traffic and provision and maintenance arrangements shall be submitted for the written approval of the Council as Planning Authority. The equipped play area shall be completed and available for use prior to the occupation of the first housing unit in Phase 7. All work shall be carried out in accordance with the approved details.

**Reason** - To ensure the adequate provision of an equipped play area in line with Moray Council Supplementary Planning Guidance - Developer Requirements for Housing.

27. Unless otherwise agreed in writing with the Council as Planning Authority (in consultation with the Ministry of Defence) for plots 77-93 and 119-130 no roof mounted or ground based solar panels, metallic superstructures, metal roof cladding or metallic garage doors shall be permitted on any of the dwellings or upon any outbuildings within these plots. Permitted development rights relating to extensions, outbuildings and domestic renewable energy equipment for the above plots is hereby removed.

Therefore, notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 2011 (or any order revoking or modifying that order) no development specified in Schedule 1, Parts 1, 1A and 1ZA, within Classes 1, 2B, 3A, 3B, 4A, 6A, 6B shall be carried out without the prior approval of the Council as Planning Authority.

This restriction shall similarly apply to any future change or modification of the development types covered by the above specified Permitted Development Classes.

**Reason** - To ensure that no permitted development occurs within the affected plots (identified above), which may cause a distraction or hindrance to aircraft or air traffic control, in the interests of National Security.

28. The 20 housing units agreed and designated as the 'Accessible' units as defined in Moray Local Development Plan 2015 Supplementary Guidance - Accessible Housing shall remain as 'accessible' housing unless the prior written consent of the Council as Planning Authority in consultation with the Moray Council Head of Housing & Property has been granted.

**Reason** - To ensure an acceptable form of development in terms of the delivery of housing mix and provision of accessible housing.

29. The use of the four retail units identified within Phase 9 of the development shall relate to Class 1 Shops as defined under the Town and Country Planning (Use Classes)(Scotland) Order 1997 as amended and for no other purpose without the prior written agreement of the Council (as Planning Authority).

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

30. The surface water drainage system must be provided in accordance with the revised Drainage Impact Assessment (dated August 2017 rev B). The pertinent sections of the 2015 Drainage Impact Assessment and Flood Risk Assessment relevant to flooding remain in force under planning approval 14/01496/APP.

**Reason** - In order to ensure that surface water is appropriately managed.

31. Prior to any development commencing, the following details must be submitted to and approved in writing by the Council as Planning Authority (in consultation with the Ministry of Defence):-
- a) Specific landscaping and maintenance arrangements further to the submitted 'Landscaping' 06 Rev C must be submitted showing the use of and precise position of indigenous, non-fruit bearing tree species such as Birch, Hazel, Alder, Wych Elm or Scots Pine. Details must include the specific maintenance programme of keeping the height of trees to a height below 10m above ground level for the duration of their existence. These further landscaping details must follow the guidance contained within the Civil Aviation Authority Advice Note 3 'Potential Bird Hazards from Amenity Landscaping & Building Design'.
  - b) Confirmation of landscaping arrangements surrounding the detention ponds which must be managed cut grass or hard surfacing so as not to encourage the use of the basins by birds during any periods when they are holding water. The design of the basins must also ensure that flow rates allow the basins to empty within 48 hours following any periods of high rainfall, thereby minimising the period where birds could land on the water. The management and maintenance of the Surface Water Sustainable Urban Drainage Scheme (SUDS) must follow the guidance contained within the Civil Aviation Authority Advice Note 6 'Potential Bird Hazards from Sustainable Urban Drainage Schemes (SUDS)'.

**Reason** - To avoid endangering the safe movement of aircraft and the operation of RAF Lossiemouth through the attraction of birds and an increase in the bird hazard risk of the application site.

32. No construction traffic shall access the site from Boyd Anderson Drive.

**Reason** - To protect the residential amenity of neighbouring properties.



**Reason(s) for Decision**

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

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

**List of Informatives:**

THE DEVELOPMENT MANAGER AND BUILDING STANDARDS MANAGER, DEVELOPMENT SERVICES has commented that:-

The Street lighting type must be selected taking into consideration the requirements of the Ministry of Defence to use street lighting that is properly hooded with no overspill, so as not to distract air crew taking off or approaching the airbase.

HISTORIC ENVIRONMENT SCOTLAND has commented that:-

The Kinneddar, Bishop's Palace scheduled monument area should be temporarily fenced off (with the fence outwith the scheduled area) for the duration of the construction works.

ENVIRONMENTAL PROTECTION has commented that:-

The landscape maintenance arrangements should include clarification of the collection arrangements for any dog bins provided.

SCOTTISH NATURAL HERITAGE has commented that:-

The developer is reminded of their obligations to protect breeding nesting birds, and suggest that scrub removal should ideally take place outwith the bird nesting season in late spring early summer.

MORAY FLOOD RISK MANAGEMENT has commented that:-

Following completion of development as-built drawings of all foul and surface water drainage infrastructures should be provided in an acceptable format to the Senior Engineer (Flood Risk Management) in order to comply with the Flood Risk Management (Scotland) Act 2009.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Before commencing development, the applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads. The applicant will be required to provide technical information, including drawings and drainage calculations. Advice on this matter can be obtained from the Moray Council web site or by emailing [road.maint@moray.gov.uk](mailto:road.maint@moray.gov.uk)

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

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

Street lighting is required as part of this development proposal and the applicant must contact the Street Lighting Section at Ashgrove Depot to discuss the proposals.

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

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

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

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

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

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals.

The developer must contact the Roads Authority Roads Maintenance Manager at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7349 to discuss the proposals.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

All outfalls to the water environment (including from basins) should also be approved by SEPA.

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which: is more than 4 hectares, is in excess of 5km, or includes an area of more than 1 hectare, or length of more than 500m, on ground with a slope in excess of 25°. Please see SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office. Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment.

Any material re-used on the site, taken from the site, or brought onto the site, should be done so in line with current guidance, best practice and regulation, and authorisation from SEPA may be required.

For information on the above, or for details of other regulatory requirements and good practice advice, the applicant is advised to view the Regulations section of our website or contact Lucy Summers, Environment Protection Officer in our Elgin office on 01343 547663.

If you have any queries relating to this letter, please contact Jessica Fraser by telephone on 01224 266698 or e-mail at [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk).

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
02	A	Phase 1
02	B	Phase 1-2
02	C	Phase 1-3
02	D	Phase 1-4A
02	E	Phase 1-4B
02	F	Phase 1-5A
02	G	Phase 1-5B
02	H	Phase 1-6
02	I	Phase 1-7
02	K	Phase 1-9
02	J	Phase 1-8
02	L	Phase 1-10
02	M	Phase 1-11
06		Landscaping plan
19		Road-footpath adoption
		Location plan
		Alves Accessible House - floor plans
		Balormie 4 Housetype Left Hand - elevations floor plans and section
		Balormie 4 Housetype Right Hand - elevations floor plans and sections
		Kean Accessible House - floor plans
		Kinneddar Accessible house - floor plans
01	J	Master plan
02	J	Phasing plan



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00100/APP**

**Site Address:**

R1 Sunbank

Lossiemouth

**Applicant Name:**

Tulloch Of Cummingston Ltd

Plans, drawings and other material submitted to the local authority are protected by the Copyright, Designs and Patents Act 1988 (section 47). You may only use material which is downloaded and/or printed for consultation purposes, to compare current applications with previous schemes and to check whether developments have been completed in accordance with approved plans.

Further copies must not be made without the prior permission of the copyright owner.

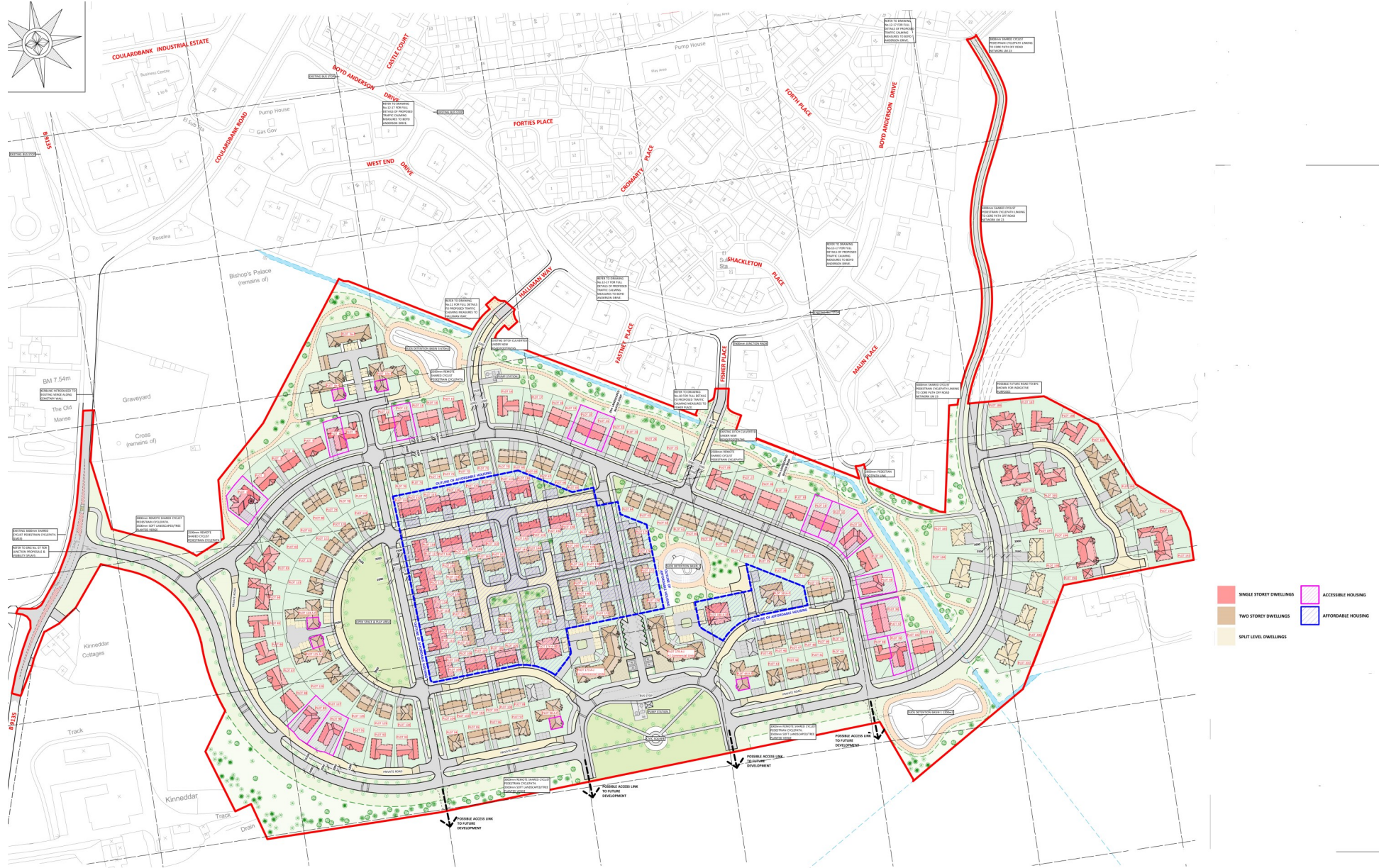
Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Moray Council and other Copyright holders. This permission must be granted in advance.

## Location Plan





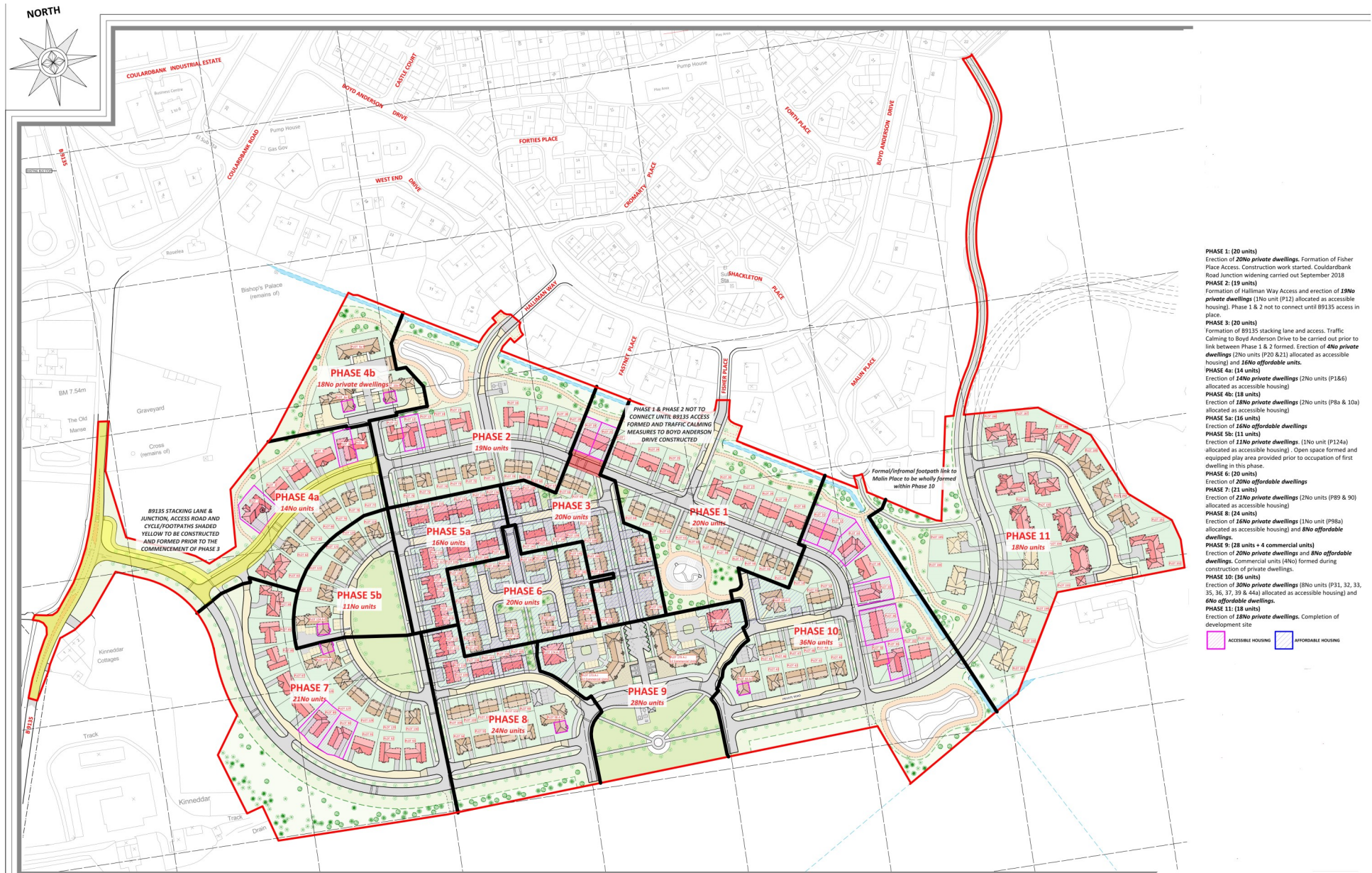








# Site layout





## PLANNING APPLICATION: 19/00100/APP

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

---

### **THE PROPOSAL**

- Application under Section 42 to vary conditions 1, 3, 4, 5, 7, 8, 9, 10, 26, 27, 28, 30 and 31 of planning consent 14/01486/APP altering the phasing plans delivery of affordable units (increased by 2 units) delivery of accessible units (increased by 1 unit) site layout details (altering the position of a SUDS basin landscaping and access/footpaths) which increases the total number of residential units to 265 (from 261). The conditions referred to above all refer, in whole or in part, to the previously approved phasing plans, which is the reason they are identified as requiring variation. More specifically the variations sought are identified as:-
  - This proposal comprises an adjustment to the previous approved phasing plans and will still see the delivery of the access link onto the Kinnedder B9135 prior to the commencement of Phase 3. There is no substantive change to the overall phasing with the most notable changes in delivery and layout occurring in phases 3-5.
  - The altered phasing would change the delivery of affordable and accessible units between the phases, but would see the number of affordable housing units increase from 72 up to 74.
  - The number of accessible houses would increase by 1 up to 20 units. The house types of accessible units are altered to a mix of bungalows and ground floor flats.
  - The altered layout includes the repositioning of one of the SUDS basins in phase 1.
  - Change the house type on plots 17, 24, 55, 64, 71-82, and 99-108. This change in house type relates to the provision of new styles of four bedroomed house.
  - Reduce the area of green space at the western edge of the site close to Kinneddar, with the overall provision of green space remaining above 30%.
  - Increase in pedestrian paths within Phases 3 and 6 linking through to remainder of site and changes to the paths in the vicinity of the relocated SUDS basin.

### **THE SITE**

- The site occupies Lossiemouth settlement statement designation R1 Sunbank/Kinneddar which is designated for residential development.
- The site has some history of localised flood and surface water issues. A ditch lies along the northern boundary of the site, which then flows south east towards Sunbank House across the site.
- The site lies close to eastern boundary of RAF Lossiemouth and within the current "noise contour" map area surrounding its runways.

- A number of archaeological features lie within or close to the site, which also lies adjacent to the scheduled ancient monument known as the Bishops Palace, adjacent to Kinneddar graveyard west of the site.
- On the north side of the site three small areas of the site linking into Halliman Way, Fisher Place and path only link into Malin Place will cross what is currently maintained amenity land the access from Fisher Place into Phase 1 is already in place). The three streets are all accessed via Boyd Anderson Drive. Several properties lie west of the site at Kinneddar which take access from the B9135. Sunbank House south east of the site and takes access from the A941.
- At present the development has commenced on Phase 1 and is well underway, with the access into Fisher Place complete.

## **HISTORY**

For the same site:

**14/01486/APP** - Detailed planning permission for the erection of 261 dwellings and community facilities (4no retail units) with associated roads landscaping amenity areas and infrastructure at R1, Sunbank, Lossiemouth, Moray. Approved In April 2017 following finalisation of the legal agreement and considered by Committee in 2016.

**17/01075/APP** - Vary the phasing layout plans (as approved under condition 8 of a planning approval 14/01486/APP) to relocate SUDS basin 2 and re-position affordable house units at R1, Sunbank, Lossiemouth, Moray. Withdrawn.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

Advertised for neighbour notification purposes.

## **CONSULTATIONS**

**Lossiemouth Community Council** - no response at time of writing the report.

**Planning Obligations** - contributions have been sought towards healthcare for the 4 additional units proposed (this will amount to £5,576). The previous contributions under 14/01486/APP remains in place.

**Transportation** – no objections subject to revised conditions. Following some minor variations Transportation are satisfied with the proposed revised phasing arrangements. The altered conditions ensure the timeous provision of the main site entrance onto the B9135 as per the previously approved phasing plans.

**Environmental Health** – no objections subject to an updated noise condition.

**SEPA** - no objection subject to other regulatory advice being passed on.

**Moray Flood Risk Management** – no objections.

**Environmental Health, Contaminated Land** – no objections.

**Housing Strategy and Development Manager** – no objection subject to conditions regarding delivery of affordable housing.

**Moray Access Manager** – no objections.

**Scottish Water** – no objections.

**Scottish Natural Heritage** – no objections.

**Historic Environment Scotland** – no objections and note that the western boundary of the site has come further from the Kinneddar Bishops Palace scheduled monument area which is welcomed. A condition requiring this area to be temporarily fenced off during construction would be required. (*Officer Note*) – In line with the previous decision, an informative has been attached relating to this request. The archaeological investigations in this area have already been undertaken and the site boundary now lies separate from the designation.

**Ministry of Defence** – previous conditions relating to aviation impact mitigation reiterated. These conditions relate to sound proofing within properties, avoidance of reflective or metallic surfaces on certain plots to prevent glare for aircraft using the east west runway, and design guidance relating to landscaping and the SUDS ponds to deter bird presence. These matters have been incorporated or are an ongoing matters as the development progresses.

## **OBJECTIONS-REPRESENTATIONS**

None.

## **OBSERVATIONS**

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. The main issues are considered below. On 18 December 2018, at a special meeting of the Planning & Regulatory Services Committee, the Proposed Plan was approved as the “settled view” of the Council and minimal weight will be given to the Proposed Plan, with the 2015 MLDP being the primary consideration.

### **Background to Section 42 submission**

A previous application was submitted to Moray Council under reference 17/01075/APP to consolidate various matters/amendments but during the consideration process, other matters came to light requiring variation to the approved development that fell out with the scope of that application. In reviewing these amendments and proposed changes to phasing it was considered that a Section 42 application to vary conditions of the extant planning approval 14/01486/FUL for which development has already commenced. The

changes sought between the current planning permission for Sunbank are detailed about in the proposals section. As the phasing relates to the site in its entirety, the application as revised to a smaller footprint covers the site in its entirety.

Several of the pre-development conditions covering matters such as Transportation and archaeology have already been satisfied. Of note several of the Transportation improvements required, such as improvements to the junction of the Coularbank Road and Elgin Road have already been implemented. The road connection from Phase 1 into Fisher Place is also now complete.

As described the proposal is for a variation to conditions 1, 3, 4, 5, 7, 8, 9, 10, 26, 27, 28, 30 and 31 which have been altered accordingly within the recommendation section. For completeness all other conditions attached to 14/01486/APP have been attached to the recommendation and are re-iterated. Many have been cleared or are ongoing under the original planning application.

### **Compliance with Lossiemouth R1 (Lossiemouth R1 Sunbank/Kinneddar, H1, PP3 and IMP1)**

The R1 designation states the site has an indicative capacity of 250 residential units. Approval was granted previously for a total of 261 units and the current proposal see this density increase to 265 units with the increase in numbers not occurring until phases 4 and beyond.

Despite the increase in house numbers the layout continues to accommodate acceptable levels of landscaping and public open space. The design and layout still complies with policy H1 Housing Land Allocations. In considering the revisions in relation to policy H1 indicates that numbers exceeding the indicative capacity may be acceptable and determined by detailed analysis of the submitted layout and compliance with the criteria used to define the designation: e.g. landscaping requirements, access constraints, neighbouring housing densities etc. The addition of 4 house units to the overall layout and alterations do the layout to not compromise these above objectives. Indeed the additional paths running east west through phases 3 and 6 improves access through the site.

Given the proximity to the RAF Lossiemouth air base, there was previously a great deal of scrutiny over matters such as building heights, reflective building materials, and SUDS pond design. The proposed revisions and changes to layout are relatively minor and do not materially alter the overall height of the development, and conditions regarding other Ministry of Defence mitigation measures requirements are re-iterated.

### **Landscaping, play area and maintenance (E4, E5, PP3 and IMP1)**

Policy E5 Open Spaces requires that sites that propose over 200 housing units should provide a minimum of 30% open space inclusive of formal parks and play spaces within residential sites. A substantial amount of landscaped land and civic space is proposed as part of this development and a condition is recommended to ensure ongoing maintenance arrangements are in place in perpetuity.

The site previously extended to approximately 14.5ha. The minimum requirement of open space to serve this site area is therefore 4.35ha and 5.32ha was provided, notably exceeding the 30% requirement with a provision of a little over 35%. With the revised site boundaries on the west side of the site, the overall site size has been reduced and so has

the amount of open space. The proportion of open space now lies at 31.5% of the overall site area, but this still ensures compliance with policy E5 Open Spaces. The open space, still functions to serve the site in terms of amenity, with the only loss or change of open space occurring at the western edge of the site. The revised location of the SUDS basin in phase 1 now provided an attractive space within the development, rather than at its edge.

The play area will be provided within what is now Phase 7, rather than phase 6, but this will not see its delivery being significantly delayed in the overall layout.

### **Access and Parking (R1 Lossiemouth, TSP1- 5, TP7, T2 and T5)**

The proposed variations do not affect or diminish delivery of the various transportation requirements of the settlement statement designation R1, or associated TSP's. Several of the TSP's have already been implemented or have already obtained separate Roads Construction Consent in anticipation of being delivered.

The changes in phasing require variation to several of the transportation related conditions, but critically, the variations would see no more traffic utilising either Fisher Place or Halliman Way than was previously approved. The changes in phasing would also see the formal connection to the B9135 Kinneddar Road occurring no later than was previously approved. The variations being relatively minor in nature do not have any impact on traffic within the wider area.

The amended layout alters and improves the parking provision in Phase 9 near the proposed 4 commercial units.

### **Affordable Housing (H8)**

Policy H8 and associated Supplementary Planning Affordable Housing Guidance requires development on designated and other sites to provide affordable housing, normally 25% of the total development. The 74 affordable units (increased by 2 up from 72 units) will be provided as part of the overall phased development which is to occur over 11 phases. Whilst the changes in phasing also changes the order of delivery of affordable housing units, the provision would still occur between phases 3 – 10 at an acceptable rate of provision.

The mix of affordables will now constitute the below configuration, using previously approved design types.

- 6No 1 bed flats
- 8No 1 bed quad units
- 22No 2 bed bungalows
- 2No 2 bed wheelchair accessible bungalows
- 6No 3 bed bungalows
- 18No 3 bed houses
- 8No 4 bed houses
- 4No 5 bed houses

A condition is recommended (condition 1), as before allowing further input by the Housing Strategy and Development Manager to the delivery of affordable units in the various phases of the development.



## **Accessible Housing (H9)**

Policy H9 requires all proposals for 10 or more units to provide a proportion of wheelchair accessible housing. The associated Supplementary Planning Guidance (SPG) requires 10% of the units that are not part of the affordable housing contribution to be accessible. In this case 20 plots have been identified as the accessible housing contribution (an increase of 1 from the previous approval accepting 19). This represents 10% of the proposed private houses and is an acceptable level of provision. There has been a variation to the house types of accessible housing, but the layouts demonstrate compliance with the Accessible Housing Supplementary Guidance standards.

The provision will be spread proportionately throughout the various phases of the development and the applicant has identified the plots and compliant designs, which have been subject to the agreement with the Housing Strategy and Development Manager.

## **Archaeology and Built Heritage (BE1)**

The site is host to several archaeological features and within close proximity to the Kinneddar, Bishop's Palace scheduled ancient monument. Following consultation with the Archaeology Service and informal consultation with Historic Environment Scotland they have confirmed that they have no objection but have requested there be some temporary separation from this historic asset from the development works. They welcomed the increased distance between the new site boundary and the scheduled ancient monument site. It is noted that archaeological work has already been undertaken in accordance with condition 2 of the previous approval.

## **Surface Water Drainage (EP5)**

The revised position of the surface water (SUDS) drainage basin within phase 1 has come about following further investigation of ground levels across the site. Consultation with both SEPA and the Council's own Flood Risk Management Section has raised no issues with this revision, with no changes otherwise to the previously proposed. The revised Drainage Impact Assessment submitted is acceptable and is addressed under recommended condition 30. The basin will still need to be designed in accordance with the MoD's requirements to discourage bird habitat being created near to air bases, and to this end Condition 31 is re-iterated.

## **Other matters**

Matters previously considered approved relating to 4 retail units (policy R3: Neighbourhood and Local Shops), Noise mitigation from the nearby airbase (EP8: Pollution), contaminated land (EP9: Contaminated Land), sustainability (PP2 Climate change), Foul drainage (EP10: Foul Drainage), Flooding (EP7: Control of Development in Flood Risk Areas) remain unaltered and the previous conditions remain in place and are re-iterated from clarity. The proposed revisions raise no departure issues.



## **Conclusion**

The proposed variations are minor in nature and the change in house are types in keeping with the other designs previously approved. The various variations do not significantly alter the appearance or delivery of the housing development and attracted no objections.

## **REASON(S) FOR DECISION**

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

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

**Author/Contact  
Officer:**

Neal MacPherson  
Principal Planning Officer

**Ext:** 01343 563266

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

## **APPENDIX**

### **POLICY**

#### **Adopted Moray Local Development Plan 2015**

##### **Primary Policy PP1: Sustainable Economic Growth**

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

##### **Primary Policy PP2: Climate Change**

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

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

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

##### **Primary Policy PP3: Placemaking**

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

Developments should;

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

## **Policy H1: Housing Land**

### **Designated sites**

Land has been designated to meet the strategic housing land requirements 2013-2025 in the settlement statements as set out in Table 1. Proposals for development on all designated housing sites must include or be supported by information regarding the comprehensive layout and development of the whole site. This allows consideration of all servicing, infrastructure and landscaping provision to be taken into account at the outset. It will also allow an assessment of any contribution or affordable housing needs to be made. Proposals must comply with the site development requirements within the settlement plans and policies and the Council's policy on Place- making and Supplementary Guidance, "People and Places".

### **Windfall sites within settlements**

New housing on land not designated for residential development within settlement boundaries will be acceptable if;

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use

d) The requirements of policies PP2, PP3 and IMP1 are met.

## **Housing Density**

Capacity figures indicated within site designations are indicative and proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1.

## **Policy H8: Affordable Housing**

Proposals for new housing developments of 4 or more units (including conversions) must provide 25% of the total units as affordable housing.

A higher percentage contribution may be appropriate subject to funding availability as informed by the Local Housing Strategy. A lesser contribution or alternative in the form of off-site provision or a commuted payment will only be considered where exceptional site development costs or other project viability issues are demonstrated.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

## **Policy H9: Housing Mix/Accessible Housing**

Proposals for multiple houses must meet the needs of smaller households, older people and other needs (e.g. extra care housing) identified in the Council's Housing Need and Demand Assessment.

All new residential developments must provide a range of housing of different types and sizes which should reflect the requirements of the Local Housing Strategy. Different house types should be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Housing proposals of 10 or more units will be required to provide a proportion of wheelchair accessible housing. Flexibility may apply on less accessible sites and/or where an alternative acceptable housing mix is proposed.

Off site provision may be acceptable where sites do not have good access to local services and facilities and are not considered appropriate for housing for older people.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

## **Policy E3: Protected Species**

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

- there is no satisfactory alternative; and

- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

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

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

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

#### **Policy E4: Trees and Development**

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

## **Policy E5: Open Spaces**

### **Safeguarding Open Spaces**

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

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

### **Provision of new Open Spaces**

#### **Quantity**

New green spaces should be provided to the following standards;

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

#### **Quality**

New green spaces should be;

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

- Support the principles of Placemaking policy PP3.

## **Allotments**

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

## **Policy E9: Settlement Boundaries**

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

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

## **Policy E10: Countryside Around Towns**

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

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

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

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

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

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

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

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

### **Policy EP6: Waterbodies**

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

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

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

### **Policy EP7: Control of Development in Flood Risk Areas**

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

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

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas



within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
- Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

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

### **Policy EP8: Pollution**

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

### **Policy EP9: Contaminated Land**

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

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

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

### **Policy EP10: Foul Drainage**

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

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

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

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

### **Policy EP12: Air Quality**

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

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

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

### **Policy EP13: Ministry of Defence Safeguarding Areas**

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

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

### **Policy T2: Provision of Access**

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

### **Policy T5: Parking Standards**

Proposals for development must conform with the Council's current policy on parking standards.

### **Policy IMP1: Developer Requirements**

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.

- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

### **Policy IMP3: Developer Obligations**

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

### **R1: Sunbank/Kinneddar**

This 14.5 hectare site is identified to accommodate 250 houses and associated landscaping. Consultation with the Ministry of Defence is required to establish the extent to which development can be accommodated.

Development of this site must include provision for extensive phased boundary landscaping on all sides. A landscaping plan and statement should be submitted with proposals. Development should maximise permeability and include new pedestrian and cycle linkages through the site from east to west and north to south.

A Transport Assessment is required. Two accesses to the development are required. Potential to access onto the B9135 (TSP1) providing an acceptable design can be achieved and access through OPP2 to a new junction onto the A941(TSP5). Connections through existing built up area and onto Boyd Anderson Drive should be considered (TSP3). Offsite junction/road improvements may be required (see TSPs). Access options will require to meet the necessary design standards in particular visibility splays. A public transport route is required through the site.

A habitats survey should be submitted with proposals. An archaeological evaluation must also be undertaken prior to development commencement. Development should consider the setting of Kinnedar, Bishops Palace (scheduled monument).

Proposals should be supported by a flood risk assessment (FRA). A Drainage Impact Assessment is also required.

#### **TSP1: B9135/Kinnedar**

Potential new junction onto B9135 to serve R1 designation (subject to an acceptable design being achievable). Visibility constrained at location due to existing properties and graveyard walls to north. Signalised junction would be acceptable in principle subject to confirmation of design details.

### **Proposed Moray Local Development Plan 2020**

#### **PP1 PLACEMAKING**

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. 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.
- For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
- 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.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces 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 connect into wildlife corridors/ green 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 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% 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
- Secured 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 standardized.
  - Dead-end streets/cul-de-sacs will only be selectively permitted on rural edges or where topography dictates. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
  - Roundabouts must be designed to create gateways and contribute to the character of the overall development.
  - 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) Masterplans have been prepared for Findrassie (Elgin), Elgin South, Bilbohall (Elgin), and Dallas Dhu (Forres) and are Supplementary Guidance to the Plan. Further Masterplans will be prepared in partnership for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/ Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. A peer review organised by the Council will be undertaken at the draft and final stages in the masterplan's preparation. Following approval, the Masterplans will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

### **PP2 SUSTAINABLE ECONOMIC GROWTH.**

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

## **PP3 INFRASTRUCTURE & SERVICES.**

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

### **a) Development proposals will need to provide for the following infrastructure and services:**

- 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 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, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- 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.

**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.
- 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, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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 developments, including extensions and conversions and will be applied proportionately.

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 400m<sup>2</sup>, 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.
- i) 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

## **(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. Minimal (25%) 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 and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas 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.

## **DP2 HOUSING.**

- a) Proposals for development on all designated and windfall housing sites must include a design statement and supporting information regarding the comprehensive layout and development of the whole site, addressing infrastructure, access for pedestrians, cyclists, public transport and service vehicles, landscaping, drainage, affordable and accessible housing and other matters identified by the planning authority, unless otherwise indicated in the site designation.

Proposals must comply with Policy PP1, DP1, the site development requirements within the settlement plans, all other relevant policies within the Plan and must comply with the following requirements.

- b) **Piecemeal/ individual plot development proposals**

Piecemeal and individual/ plot development proposals will only be acceptable where details for the comprehensive redevelopment of the site are provided to the satisfaction of the planning authority and proposals comply with the terms of Policy DP1, other relevant policies including access, affordable and accessible housing, landscaping and open space and where appropriate key design principles and site designation requirements are met.

Proposals for piecemeal/ plot development must be accompanied by a Delivery Plan setting out how the comprehensive development of the site will be achieved.

- c) **Housing density**

Capacity figures indicated within site designations are indicative only. Proposed capacities will be considered through the Quality Auditing process against the characteristics of the site, character of the surrounding area, conformity with all policies and the requirements of good Placemaking as set out in Policies PP1 and DP1.

- d) **Affordable Housing**

Proposals for all housing developments (including conversions) must provide a contribution towards the provision of affordable housing.

Proposals for new housing developments of 4 or more units (including conversions) must provide 25% of the total units as affordable housing in affordable tenures to be agreed by the Housing Strategy and Development Manager. For proposals of less than 4 market housing units a commuted payment will be required towards meeting housing needs in the local housing market area.

A higher percentage contribution will be considered subject to funding availability, as informed by the Local Housing Strategy. A lesser contribution or alternative in the form of off-site provision or a commuted payment will only be considered where exceptional site development costs or other project viability issues are demonstrated and agreed by the Housing Strategy and Development Manager and the Economic Development and Planning Manager. Intermediate tenures will be considered in accordance with the HNDA and Local Housing Strategy, and agreed with the Housing Strategy and Development Manager.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 44.

**e) Housing Mix and Tenure Integration**

Proposals for 4 or more housing units must provide a mix of house types, tenures and sizes to meet local needs as identified in the Housing Need and Demand Assessment and Local Housing Strategy.

Proposals must demonstrate tenure integration and meet the following criteria;

- Architectural style and external finishes must ensure that homes are tenure blind.
- The spatial mix must ensure communities are integrated to share school catchment areas, open spaces, play areas, sports areas, bus stops and other community facilities.

**f) Accessible Housing**

Housing proposals of 10 or more units will be required to provide 10% of the private sector units to wheelchair accessible standard, with all of the accessible units to be in single storey form. Flexibility may be applied on sites where topography would be particularly challenging for wheelchair users.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 44.

**EP1 NATURAL HERITAGE DESIGNATIONS.**

**a) Natura 2000 designations.**

Development likely to have a significant effect on a Natura 2000 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 Natura 2000 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 Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless 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;

- i) 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).
- ii) There is no satisfactory alternative to the development.
- iii) 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.

#### **EP4 COUNTRYSIDE AROUND TOWNS.**

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

- a) Involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- b) Are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas (excluding houses in all these cases), or
- c) Are a designated "LONG" term housing allocation released for development under the terms of Policy DP3.

Countryside Around Town areas are classed as "sensitive" areas in terms of Policy DP4 Rural Housing and no new rural housing will be permitted within them unless the above criteria is met.

#### **EP5 OPEN SPACE.**

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designation in rural groupings to anything other than an open space use will be refused.

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

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

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

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

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

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

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

#### **b) Green Infrastructure and Open Space in New Development.**

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

Open space provision in new developments must meet the accessibility, quality and quantity standards set out below and meet the requirements of policy PP1 Placemaking, EP2 Biodiversity, other relevant policies and any site specific requirements within the Settlement Statements. Developers must demonstrate through a Placemaking Statement that they have considered these standards in the design of the open space, this must include submission of a wider analysis plan that details existing open space outwith the site, key community facilities in the area and wider path networks.

**i) Accessibility Standard.**

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

**ii) Quality Standard.**

Across a development open space must achieve a very good quality score of 75%. Quality will be assessed by planning officers against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

**Accessible and well connected.**

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

**Attractive and Appealing Places.**

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

**Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).**

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

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

**Promotes activity, health and well being.**

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

**Safe, Welcoming and contributing to Character and Identity.**

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

**iii) Quantity Standard.**

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

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

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

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

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

## **EP6 SETTLEMENT BOUNDARIES**

Settlement boundaries are drawn around each of the towns, villages and rural groupings representing the limit to which these settlements can expand during the Local Development Plan period.

Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released under the terms of Policy DP3.

## **EP13 FOUL DRAINAGE**

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

## **EP14 POLLUTION, CONTAMINATION & HAZARDS.**

### **a) Pollution.**

Development Proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed

assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

**b) Contamination.**

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

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

**c) Hazardous sites.**

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