

22/01234/APP

6th September 2022

Restoration and change of use of fishing bothy to form holiday home at Land Adjacent To Millie Bothy Roseisle Moray for Millie Bothy Ltd

Comments:

- A site visit has been carried out.
- The application raises matters of wider community interest and/or planning significance.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- Advertised as a departure from the development plan.
- 302 individual's submitted representations, of these 264 are objections and 37 are in support of the proposal.

Procedure:

None.

Recommendation

Refuse – For the Following Reason(s):-

The proposal is contrary to policies 4, 10, 14, 22, 29 and 30 of the National Planning Framework 4 (NPF) and policies PP1, DP1, EP3, EP7 and EP17 of the Moray Local Development Plan 2020 (MLDP) for the following reasons:-

The introduction of tourist accommodation and the associated intensification of activity in this undeveloped coastal special landscape area is an incompatible use that would have adverse effects on the integrity of the area and the qualities it has been identified for. These effects are not outweighed by any other factors. This would be contrary to policies 4 Natural Places, 29 Rural Development and EP3 Special Landscape Areas and Landscape Character.

Given the special qualities of this locality in terms of seclusion and naturalness it is not appropriate to introduce tourist accommodation in this location in the form of the redeveloped bothy. The woodland experiences a high level of recreational use and creating an area within where privacy is implied would be incongruous with the public access enjoyed at present. This would be contrary to policies 14 Liveable Places and PP1 Placemaking and DP1 Development Principles.

The proposed accommodation would not be located so as to protect and enhance the natural environment in this location where this part of Roseisle Forest and its undeveloped nature is of wider benefit to tourism and the wider local community. Contrary to policies 30 Tourism and EP7 Forestry, Woodlands and Trees.

The proposal fails to meet accessibility requirements for disabled people, all tourist development must ensure it provides infrastructure for all abilities. This is contrary to policy 30 Tourism.

It has not been demonstrated that a wholesome and adequate water supply can be provided to the development as required by the terms of Section 63 of the Water (Scotland) Act 1980. This is contrary to policies 22 Flood Risk and Water Management and DP1 Development Principles.

The site is identified in the Dynamic Coast Webmaps eroded area and Future Mean High Water Springs level for the 2100 High Emissions Scenario and does not meet the requirements of policy 10b, as it does not negate the requirement for coastal defences, prevent the increase of risk to people from coastal flooding or erosion, or evidence that it is supportable in the long-term taking into account projected climate change. In addition to this no information has been provided on the impact of the proposal on the coast in regards to long-term coastal vulnerability and resilience as required. This is contrary to policy 10 Coastal Development and to MLDP policy EP17 Coastal Development.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
SK_90_104	B	Location plan
SK_90_100	M	Site plan
SK_90_101		Proposed floor plans
PL_00_03		Elevations and sections
SK_00_305	A	Plant/Storage building



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

22/01234/APP

Site Address:

Millie Bothy Ltd

Applicant Name:

Land Adjacent To Millie Bothy

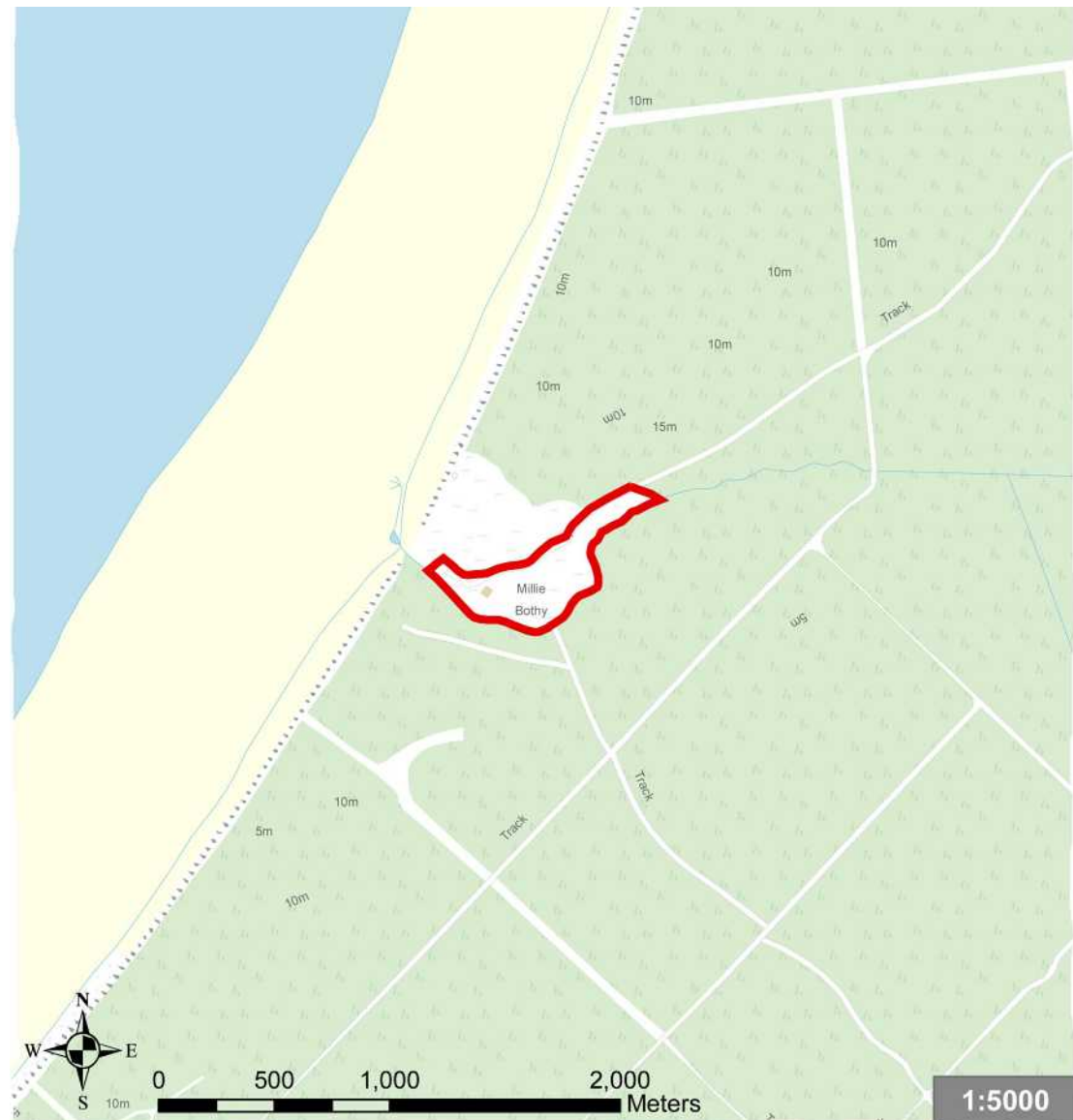
Roseisle

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Location Plan

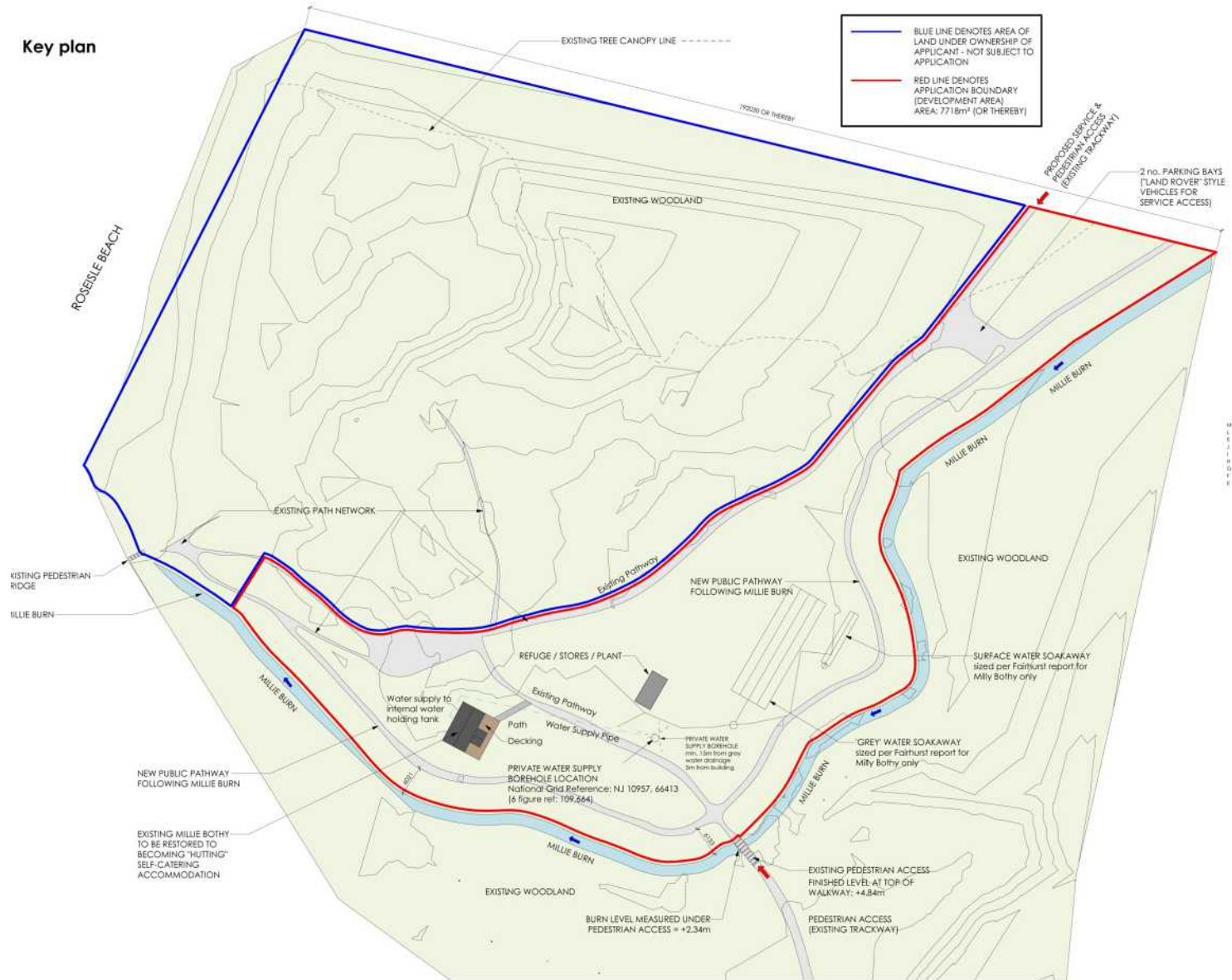


Location plan



Site plan

Key plan



Elevations



Millie Bothy - South-West Elevation



- PROPOSED EXTERNAL MATERIALS
- Natural slate roofing c/w zinc flashings
 - Conservation type rooflights
 - Powder coated aluminium rainwater goods
 - Rebuild walls using reclaimed masonry from site to match historic records as closely as possible
 - Aluminium clad timber framed triple glazed windows, screens and doors

Millie Bothy - North-West Elevation



Millie Bothy - South-East Elevation



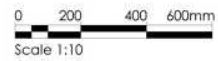
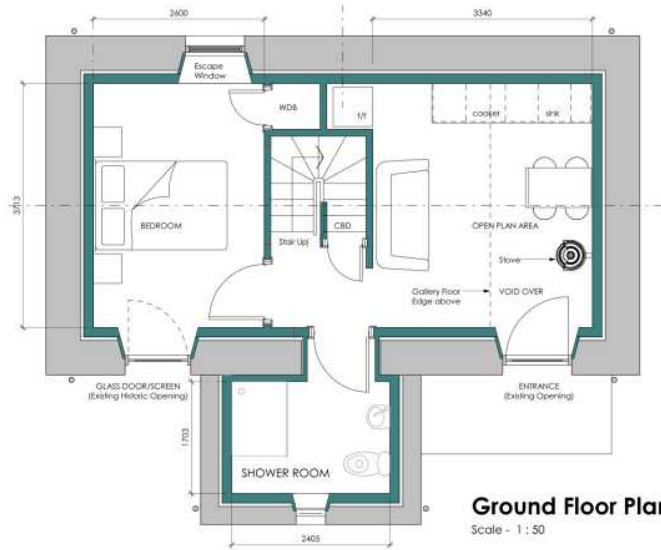
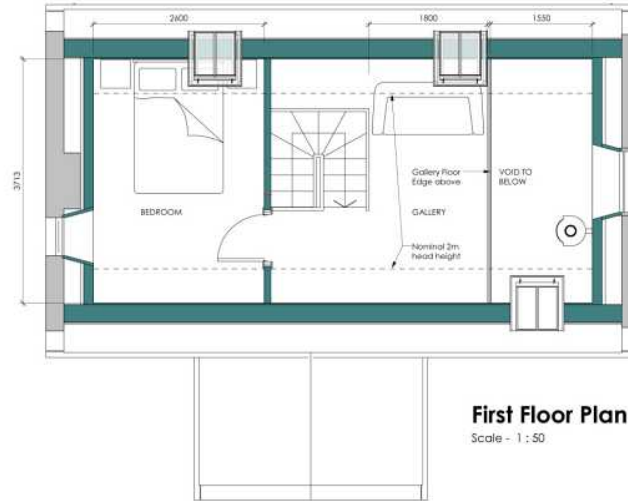
Millie Bothy - North-East Elevation



0 2 4 6m
Scale 1:100

Millie Bothy - Section

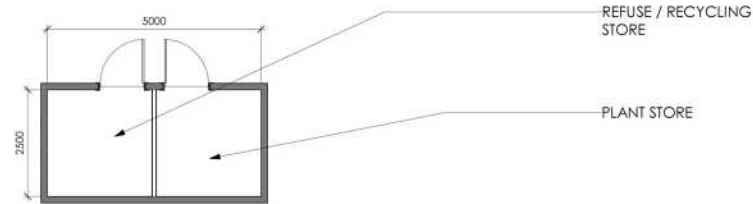
Floor plans



Plant/storage building

Ground Floor Plan

Scale - 1 : 100



Limit plan
3050
Eaves Level
2100
GF Plan
0

LEFT

RIGHT

Front elevation

Scale - 1 : 100

Side elevation (right)

Scale - 1 : 100

Limit plan
3050
Eaves Level
2100
GF Plan
0

Back elevation

Scale - 1 : 100

Side elevation (left)

Scale - 1 : 100

PLANNING APPLICATION: 22/01234/APP

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

1. THE PROPOSAL

- Planning permission is sought to restore and convert historic salmon bothy (known as Millie Bothy) to a holiday home at Roseisle Beach west of Burghead. The application is partially retrospective due to ground works at the site.
- Millie Bothy will be re-built using reclaimed stone with a natural slate roof (zinc flashings) and aluminium timber framed triple glazed windows, screens and doors. Currently the outer wall on 3 sides is substantively intact, with the south side demolished in parts.
- The conversion comprises a kitchen, 2 bedrooms, shower room and gallery sitting area. It has a total floor area of approx. 56 sqm.
- It is intended for solar lights to be used, with bottled gas for cooking and heating provided by the way of a wood burning stove.
- A compostable toilet is proposed to serve the Bothy. Grey water will be treated by a mini treatment plant with discharge to a soakaway.
- The site plan shows a borehole that has been drilled which was intended to supply the Bothy with water however the chemical sample and yield results from this were never provided and due to unforeseen circumstances the borehole may no longer be able to be used. At the time of writing this report it has been confirmed that the existing borehole is to be re-drilled.
- Vehicular access to the site is via an existing forestry access (which has a lockable gate) off the B9089 Kinloss-Burghead Road south of the site.
- Parking is proposed to be within the existing informal parking area located adjacent to the B9089 Kinloss to Burghead Road or at the Roseisle Forest public parking area with customers thereafter approaching the site on foot which has been provisionally agreed by Forestry and Land Scotland (managers of these areas). Two parking spaces and a turning area are to be provided on the application site for service vehicles.
- A new pedestrian path (works for this have started) is proposed that follows the Millie Burn and links into the existing pedestrian footbridge giving public access to the beach.
- Supporting documents submitted with the proposal include a Planning and Design Statement (dated Aug 2022), Ecological Impact Assessment (dated June 2021), Ecological Survey and Assessment Report (dated Nov 2018) and a Ground Investigation Report (dated July 2019).
- In terms of means of enclosure, no intimation has been provided regarding enclosing the site, and the public footpaths are being relocated and remain accessible.

2. THE SITE

- The proposal site is approximately 7800 sqm in size and is located 1.9 km north east of Roseisle Forest Car Park.
- The site is located in a clearing within Roseisle Forest, 75 m from the coast. The Roseisle Forest (a coniferous plantation) bounds the site to the west, east and south, with an area of open coastal grass to the north which leads to the beach.
- The site is currently coastal foreshore; the majority of the site comprises undulating vegetated dunes and grass. The site is partially screened from the beach by the duneland topography.
- The forest is managed by Forestry and Land Scotland in undertaking timber production, recreation and nature conservation objectives.
- The forest is publicly accessible, with countryside recreational use facilitated by the existence of car parking facilities, picnic places, paths, interpretive information boards, a visitor centre building containing toilets, and related elements.
- Paths run through the site that are used by the public, horse riders and cyclists. The paths connect the forest to the beach.
- Millie Bothy lies to the south west of the site. The Bothy was built in the 1800's and was used as a salmon bothy. The Bothy is currently a ruin, with only partial walls remaining and one gable wall intact.
- The Millie Burn runs along the south eastern boundary of the site and discharges into the Moray Firth.
- The north east section of the site lies within the National Forest Inventory Scotland (NFI) 2014.
- The site is located within the Burghead to Findhorn Coastal Special Landscape Area.
- The site lies within 300m of the Moray Firth Special Area of Conservation (SAC) and Moray Firth Special Protection Area (SPA).
- Informal public path running through the site has been re-formed on the south and east sides of the site, which are subject of the stop-notice below.

3. HISTORY

An Enforcement Notice and further Stop Notice was served on the site/applicant on the 22nd March 2023. These were served due to the Council's request to cease work being ignored, it was intimated that it was intended to carry out further unauthorised activity prior to the determination of planning application 22/01234/APP in the form of engineering operations and the erection of a 4' fence which if carried out would change the use of the land in question.

A Temporary Stop Notice was served on the site 23rd of February 2023 for 28 days. This was due to the breach of planning control consisting of the unauthorised creation of pathways (to the west of the site) and tracks and engineering operations whereby levels have been re-graded without the benefit of planning permission. A subsequent Enforcement Notice to the Temporary Stop Notice was subject of an appeal to the Scottish Government and was

deemed to be a nullity as the terms of the enforcement notice fell outside the terms of the Act.

21/01334/APP - Redevelopment of bothy to form holiday home – application was withdrawn.

20/00404/PELOC - Redevelopment of existing bothy for use as a family holiday bothy – the response (May 2020) provides initial feedback on the proposal in terms of the adopted local plan, including comments from consultees and information requirements expected to accompany any formal application for planning permission.

18/01453/APP - Restore and convert Millie Bothy to art gallery/office and erect 8 self-catering units – application was refused by the Planning & Regulatory Services Committee as per planning officers' recommendation. The decision was appealed to the Scottish Government who in turn dismissed the appeal. The grounds for dismissing the appeal related to the proposed coastal water abstraction method and the impact it might have upon the Moray Firth Special Area of Conservation offshore, the impact upon nature conservation interests and to the character and appearance of the locality.

17/01563/PE - Proposed holiday accommodation – The response (November 2017) provides initial feedback on the proposal in terms of the adopted local plan, including comments from consultees and information requirements expected to accompany any formal application for planning permission.

4.

POLICY

National Planning Framework 4

Sustainable Places

Policy 1 – Tackling the climate and nature crises

Policy 2 – Climate mitigation and adaptation

Policy 3 – Biodiversity

Policy 4 – Natural places

Policy 6 – Forestry, woodland and trees

Policy 7 – Historic assets and places

Policy 9 – Brownfield, vacant and derelict land and empty buildings

Policy 10 – Coastal Development

Policy 12 – Zero waste

Policy 13 – Sustainable transport

Liveable Places

Policy 14 – Design, quality and place

Policy 22 – Flood risk and water management

Policy 23 – Health and safety

Productive Places

Policy 29 – Rural development

Policy 30 – Tourism

Moray Local Development Plan 2020

Primary Policies

PP1 – Placemaking

Development Policies

DP1 – Development Principles

DP8 – Tourism Faculties

Environment Policies

EP1 – Natural Heritage Designations

EP2 – Biodiversity

EP3 – Special Landscape Areas and Landscape Character

EP7 – Forestry, Woodlands and Trees

EP12 – Management and Enhancement of the Water Environment

EP13 – Foul Drainage

EP14 – Pollution, Contamination and Hazards

EP17 – Coastal Development

5. ADVERTISEMENTS

- 5.1 Advertised for neighbour notification purposes and as a departure to the Moray Local Development Plan 2020.

6. CONSULTATIONS

Building Standards - A Building Warrant will be required. There are several building standards issues to be overcome for the development, but these would be subject of the separate consideration.

Moray Access Manager - No objection. *Officer note: - In the event that planning permission were to be granted a condition would be required ensuring public pedestrian access is maintained during the construction process.*

Developer Obligations - No obligations sought.

Scottish Forestry - No objection subject to if approval were granted no infrastructure or groundworks would impinge on the integrity of the contiguous woodland. Scottish Forestry confirmed that a Tree Survey was not required.

Contaminated Land - No objection.

Scottish Environment Protection Agency - No objection subject to the finished floor levels of the Millie Bothy including a minimum of 600mm freeboard above present ground levels being secured by condition if permitted.

Moray Flood Risk Management - Objection raised on the following grounds:-

- It should be noted that during a flood event the access road to the property may be flooded.
- It should be noted that the dynamic coast maps show that in a high emissions scenario the property is identified as at risk of coastal erosion in

the 2100 scenario. Using the low emissions scenarios the property is not at risk.

Informatives to be attached to decision notice if the application is permitted.

Transportation - No objection subject to conditions (regarding improvements to the service access and no water draining or loose material being carried onto the public road carriageway) and informatives being attached to the planning consent (if permitted).

Heldon Community Council - Object due to the proposal not being in accordance with Local Development Plan Policy and the character of the area, no submission details on flooding in the Millie Burn flood plain, no information provided on potential water tidal rising due to global climate and how it would affect the development, soakaway info requires to be updated in line with current proposal, vehicles being parked on site could set a precedent to and further overnight vehicles / camper vans and the knock impact on the environment, not enough information provided on service vehicles and what would prevent occupies driving straight to the Bothy, no information on upkeep of the access track provided, insufficient landscaping proposed, surrounding sand dunes negatively impacted by increased usage by walkers as could cause erosion and in time environmental issues, decking is not in keeping, extension not in keeping with character of bothy and does not comply with Moray Local Plan policy DP8 with regards to hutting as there is insufficient justification provided and neither provided as mitigation to enable this proposal to be acceptable.

Environmental Health - Object - it has not been demonstrated what an adequate and wholesome water supply can be provided on site as required.

In terms of Section 63 of the Water (Scotland) Act 1980 "it shall be the duty of any person erecting a building, the erection of which is begun after 15th May 1946 to make adequate provision to the satisfaction of the local authority for a sufficient supply of wholesome water in pipes for the domestic purposes of the persons occupying or using the building."

Section 4: "For the purposes of this section a building or house shall be deemed to be erected where the building or house is re-erected after an outer wall of the building or house has been broken or pulled or burned down to within 10 feet of the surface of the ground adjoining the lowest storey."

Housing (Scotland) Act 1987 - 2006 "A house meets the tolerable standard if it has an adequate piped supply of wholesome water available within the house" Without which a demolition order would be served.

Private Water – Objection - The water supply is intended to be from an on-site borehole. Information on the yield and water quality of the borehole was requested in September 2017. This information has not been submitted therefore it has not been demonstrated that a sufficient supply of suitable water for human consumption can be provided on this site.

Housing (Scotland) Act 1987

115 Demolition order.

Where a local authority, on consideration of an official representation or a report by the proper officer or other information in their possession, are satisfied that any building comprises only a house which does not meet, or houses which do not meet, the tolerable standard and that the house or, as the case may be, houses, ought to be demolished, they may, subject to section 119, make a demolition order requiring:

- (a) that the building shall be vacated within such period as may be specified in the order, not being less than 28 days from the date on which the order comes into operation, and
- (b) that the building shall be demolished within 6 weeks after the expiration of that period or, if the building is not vacated before the expiration of the period, within 6 weeks after the date on which it is vacated.

For the avoidance of doubt, a house would also include any rented private properties or holiday lets.

NatureScot - No objection – comments include ‘it is unlikely that the proposal will have a significant effect on any qualifying interests of the Moray First SAC and Moray First SPA either directly or indirectly’.

Aberdeenshire Council Archaeology Service - No objection

Strategic Planning and Delivery - Object – departure from policies EP3, DP1, DP8, EP7 and EP13 (water guidance) of Moray Local Plan and policies 4, 14, 22, 29 and 30 of the National Planning Framework.

In summary the response raises concern over the proposed development, where it fails to safeguard and protect the natural environment or landscape and would impact upon the recreational value of the Roseisle forest and beaches and that it has not been demonstrated a wholesome and adequate water supply has been provided on site.

7. OBJECTIONS-REPRESENTATIONS

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

There has been a total of 302 individual’s submitted representations, of these 264 are objections and 37 are in support of the proposal.

One neighbour notification period was run during the consideration of the application all representations have been considered and are summarised below. Where issues raised are common to all representation or have been re-stated, the below summary will not reiterate/repeat issues clearly stated at least once. All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation now reached.

Headings of objection reasons selected by objectors from objection/representation web link:

- Affecting natural environment
- Legal issues
- Litter
- Noise
- Over-development of the site
- Parking
- Poor design
- Procedures not followed correctly
- Road access
- Traffic
- View affected
- Activity at Unsociable hours/behaviour
- Drainage
- Road Safety
- Inadequate plans
- Community Council/Association Consult
- Contrary to Local Plan
- Inappropriate materials/finishes
- Lack of landscaping
- Smell
- Height of proposed development

The grounds for objection/representation are summarised as follows.

The main points of the representations are:

Affecting Natural Environment

- This is a unique area of natural beauty and should be preserved for the people who wish to visit and enjoy it all year round.
- Proposal will spoil the beauty of the fabulous area which is currently enjoyed unspoilt and natural, it should be kept as it is.
- At present it is a peaceful beautiful area and it is not right to build in the Roseisle Forest and for it to be used as a private development.
- Disruption that this would bring for the sake of one holiday home is disproportionate and unnecessary.
- Coastline from Findhorn to Burghead is very special and is enjoyed in its present form by locals and visitors alike, for walking, cycling, horse riding, water sports and other natural activities. It is one of the best locations to access the beach.
- Would be out of place in such a location.
- Area used for locals and holidaymakers to get away from it all and the proposal would ruin this.
- Area cannot be ruined for personal gain and there is no care for the environment.
- Keep this place free for everyone to enjoy.
- The proposed new path for the public will cause a lot of upheaval alongside a sandy bank of the Millie Burn.
- Amenity ruined for walkers and riders if cars introduced to the site.
- Works will scar land and access to the site significantly.
- Roseisle coastline is precious and should be protected.
- Felling trees and laying new tracks for cannot be justified.
- Will be detrimental to the area and deprive all visitors to the forest the pleasure of walking through unspoilt forest and coastal land.
- The area is currently a safe environment.
- Proposal will cause light and noise pollution.
- Natural environment would be ruined forever.
- Unnecessary intrusion into the woodland landscape.
- It is a quiet area and does not need holiday makers permanently there.
- No matter what mitigations are proposed the natural environment will be ruined, it will split the forest in two.
- No need for a holiday home on valued recreation space. The area unsuitable for homes whether private residences or dwellings.
- Our natural and wild spaces are becoming increasingly rare and impacted on by development, they should remain as it is for local people to respectfully enjoy and not for commercial gain.
- Proposal is an inappropriate and out of character commercial development in a rare uninhabited coastal landscape recognised for its nature, wilderness, and for very popular amenity value.
- Damage to the landscape would be unrepairable.
- Development will impose on the natural seclusion of the area.
- The burger van in the Roseisle Forest carpark the area, it will end up looking like Edinburgh Christmas market.

- Humanity is now urgently aware of the importance of preserving our natural heritage.
- The many little pathways would be destroyed.
- Property does not belong here, does not mix with the surrounding area.
- Area has stunning natural grasses and grounds, they should not be disturbed.
- Not the place to build, the access, water sewage, electricity would cause the destruction of the natural environment affecting wildlife, flora and fauna.
- Roseisle is one of the few undeveloped areas left in coastal Moray. A holiday home intrudes on that.
- Decimating the countryside beyond recognition is a travesty.
- Proposal will change natural balance of the area. The dynamics of this wonderful area will be spoilt forever.
- Important area for visitors to immerse themselves in nature which is important for mental health and maintaining our connection to our natural environment.
- Dunes are unstable and any development will impact on the fragile environment.
- Proposal is within a Special Landscape Area (Culbin to Burghead Coast).
- Proposal will negatively impact Moray Coastal Trail.
- How is the developer going to guarantee that there will be no adverse effect on the integrity of the Moray Firth Special Area of Conservation (SAC) or the proposed Moray Firth Special Protection Area (pSPA) or cause changes in water quality or disturbance affecting the habitats and prey species that SAC and pSPA qualifying interests rely on?
- Car parking and turning area being introduced to an area where is never there historically.
- Untold harm has been caused to the habitat and will take years to rejuvenate.
- Roseisle forest is enjoyed by a huge number of Locals and Tourists, the Roseisle Land Management Plan 2015-24 recognises it as "one of the primary recreational facilities within the district, and as a consequence access and health has a high priority".
- The area is home to one of the largest dune forests of this type anywhere in Europe and to build on it is nothing short of vandalism.

Comment (PO):

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area.

An Ecological Survey and Assessment and additional information was submitted that addressed some of the above issues adequately. Please see observation section for further information.

Design

- The building and additional roads will be unsightly and unsympathetic to the setting.
- Original Bothy did not have a decked seating area.
- The footprint of the building is no larger than a standard kitchen and would require building over.
- The proposal is larger than the existing ruin as the proposal includes a borehole, refuse store/plant building and parking and turning area.

Comment (PO):

The design of the bothy is acceptable in terms of policy. It reflects how the bothy would have originally stood. Please see observation section for further information.

Precedent

- No need to develop this area, it would be disastrous, sets a precedent for developers to put homes wherever they fancy and destroys a special part of Moray.
- Once permission is given others will follow and ruin the natural habitat.
- Proposal is an attempt to develop the whole of Roseisle Forest.
- If planning permission granted retrospectively it would set a dangerous precedent.

Comments (PO):

The current application must be assessed on its individual merits and under National Planning Framework the current Local Development Plan. Speculation about further proposals of a similar nature in Moray are not material to the current application and such proposals would be separately assessed under separate planning applications.

Contrary to Policy

- Proposal is contrary to policy PP1 as the environment would be specifically challenged by a change to 24 hour presence of humans, also a significant change for wildlife.
- Proposal is contrary to policy PP2 as safeguarding of the Moray Coastal Trail and the Moray Firth Special Area of Conservation would outweigh the economic growth that this development could offer.
- Proposal is contrary to policy PP3 as it will adversely impact active travel routes.
- Proposal is contrary policy DP4 as the change of use from a ruin to a holiday home in this context is not appropriate in this Special Landscape Area. It would 'prejudice the special qualities set out in the Moray Local Landscape Designation Review'.
- Proposal contrary to policy DP5 as no locational need for this site to be used.
- Proposal is contrary to policy DP8 as it is an inappropriate and unsympathetic development due to the impact that the dwelling will have on the area. The policy states that all proposal must demonstrate a locational need for a specific site – the proposal is to the detriment of the enjoyment to many - locals, tourists and others with tourism attractions promoting Moray as a tranquil spot away from it all. Passers-by will feel like intruders in what was a space for all.
- Proposal contrary to policy EP1 as it will impact the Special Landscape Area.
- Proposal contrary to policy EP2 as there have already been adverse impacts of the biodiversity of the area.
- Proposal is contrary to policy EP3 as it is located in the Culbin to Burghead Special Landscape Area which is classified as sensitive and no new housing is permitted. It prejudices the special landscape area.

- In the assessment procedure for Special Landscape Areas (SLA), each area was given a score, it should be noted that out of the 32 areas in Moray assessed for this, the Culbin to Burghead area scored 24, only one area scored above this (Findhorn Valley, scoring 25). This is well above the required 18 points for designation as an SLA.
- One of the Council Principal Planning Officers stated the following in the Press and Journal in October 2018 ""The landscape is under continual pressure from development, which is why we want to protect the variety and quality of what we have here. The landscape plays a big part for the tourism and whisky industries which are both very important", and "Giving areas this designation will help to control the types of development while safeguarding them for the future".
- Development of the type proposed is inappropriate in an SLA and has the potential to negatively impact an area that has been recognised as important for tourism, the proposal should be rejected.
- Proposal contrary to policy EP5 given it is for a change of use and is not for essential community infrastructure.
- Proposal is contrary to policy EP7 as it is not in accordance with the Moray Forestry and Woodlands Strategy. The development will remove an area of accessible and attractive woodland from the wider public.
- Proposal is contrary to policy EP16 as applications should minimise this release and must be accompanied by an assessment.
- The Burghead settlement states that "The Moray Coastal Trail runs through Burghead and will be safeguarded from inappropriate development".
- Contradictory to the local corporate plan quoted (Moray 2024) and the outlined approach being adopted by Moray Council, it states 'The diversity of habitats and species in Moray reflects the high quality environment, which we are committed to protect' and 'Environment – look after the world we live in to protect it for the future'.

Comment (PO):

The proposal is contrary to various policies of the National Planning Framework and the Moray Local Plan 2020 as detailed in the observations section.

Impact of Tourism

- It is an area for walkers and cyclists and should be kept natural.
- People come to the area for the natural heritage, destroying it cannot be the way forward.
- Adequate tourism accommodation in Burghead and Findhorn.
- People visit the north because it's beautiful and untouched.

Comment (PO):

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area. It does have to be acknowledged that the development would however contribute toward provision of tourist accommodation which is generally supported with the development plan.

Wildlife

- The increase of vehicles driving through the forestry tracks to access the property would damage nature and be a danger to wildlife.

- Introducing cars to the site will be detrimental to wildlife.
- The proposal would disrupt the habitats of forest animals and destroy wildlife.
- The area is of environmental importance.
- The area used for bird/wildlife watching.
- A hawthorn tree has been removed from the centre of the site, it supported an entire ecosystem of pollinating insects.
- Wildlife will be killed and habitat was destroyed during nesting season.
- Proposal will cause the destruction of a sensitive dune area.
- Litter and debris caused by the development would be a danger to wildlife.
- The area is an important eco-system for many living things.
- Newts and tadpoles spawn the Millie Bothy at the immediate planning site and dolphins and seals gather at this spot offshore due to the relative peace of the area.
- Has there been a study as to how the water supply and drainage will affect the Millie Burn ecology? It will damage the fragile ecosystem.
- Site used by seabirds and seals.
- Building work around the dunes and stream risk materials leaching into the water and impacting a much wider area than just the Bothy.
- Increased traffic to the area would pollute and impact wildlife in this space.
- Animals will have to escape, it is an invasion to nature.
- Although the forest is a plantation it does not render the existing wildlife as lacking value.
- Should be built on a barren landscape and a wildlife haven created and not one destroyed.
- Natural darkness is maintained in this area which is highly important to the wildlife in an area rich with bats, amphibian life (Millie burn is a breeding ground for common frog), reptiles (used by common lizard) and birds such as owls and woodpeckers.
- Unique ecosystem in place.
- Vegetation has been removed in bird nesting season.
- Roseisle has no overnight parking policy to protect wildlife, the proposal goes against this.
- Otters use the area.
- It fronts directly onto the Moray Firth Special Area of Conservation and the proposed NatureScot Special Protection Area which notes the area as supporting the following species: great northern diver, red-throated diver, Slavonian grebe, greater scaup, common eider, long-tailed duck, common scoter, velvet scoter, common goldeneye, breasted merganser and European shag. Many of these species are rare and their habitats have been recognised as being in need of protection. For this reason this development proposal is inappropriate and should be rejected.

Comments (PO):

Nature Scot were consulted on the proposal and have no objections subject to conditions relating to the compliance with the mitigation measures contained within the Ecological Impact Assessment if planning permission were granted. See observations section for further information.

It is speculative to suggest that the patrons of the single holiday accommodation would generate litter to the extent of harming wildlife. Several

of the grounds of objection have referred to the development causing widespread damage to the forest, habitats and wildlife. Notwithstanding the recommendation, it is necessary to maintain a degree of proportionality toward the proposals which relates to the redevelopment of only one building and site area of 7800 sqm.

Flooding

- It's near the coastline which could be affected by erosion and rising sea levels.

Comments (PO):

An updated consultation response from Moray Flood Risk Management, in light of the adoption of NPF4 and published dynamic coast data now highlights that this location, inclusive of the salmon bothy is at risk from long term coastal flooding, due to the very dynamic nature of the coast in the landscape. This is reflected in the grounds for recommending refusal.

Drainage/Sewage

- A soakaway right next to a natural stream would be worrying and need careful monitoring, will there be provision for this?
- Will bunds be required to be installed along with the drainage to preclude pollution to the Millie Burn and ocean?
- Risk of sewage entering the Millie Burn and being deposited on the beach regardless of method used.
- Release of sewage in an environment where it has never existed before.

Comment (PO):

SEPA have been consulted on the proposal and have no objections to the proposal therefore satisfactory drainage is being provided. Please see observation section for further information. The detailed design of any septic tank and soakaway would be assessed under any Building Warrant if submitted. The system would be designed to deal with the foul effluent on site, and no inference is given to a partial soakaway to the nearby watercourse. Any partial soakaway outfall may require separate consent from SEPA.

Water

- There needs to be an enquiry into why a private water supply has been sourced without consent.
- The applicant is yet to submit enough information to satisfy private water supply. Until this has been completed the application should not be considered.

Comment (PO):

Both Environmental Health and Private Water object to the proposal given the required information requested to ascertain if a wholesome and adequate water supply to the Bothy can be provided has not been submitted. Please see observation section for further information.

Litter

- The rubbish will cause a mess.
- Proposal will increase litter and mess.

- Waste management would introduce issues with refuse being left in the forest as it is transported through the tracks to the access or by the movement of refuse trucks.

Comments (PO):

The Planning Statement confirms that waste would be removed from the site and disposed of appropriately. It is speculative to presume the guests/staff would choose to litter the location.

Road Access

- Access to site too long and not suitable for a constant stream of traffic.
- The road access the developers claim to have dates back nearly a hundred years on the deeds and would have been for people on foot and horseback not for cars and articulated trucks.
- Planning statement has untruths – (section 2:1) there are no issues with regards to access arrangements to the site. It uses the Moray Coast Trail (not a private road as stated), it's a public right of way.
- At present there is limited vehicular access to the forest aside from the Roseisle Forest carpark, this will set a bad precedent.
- Surely when using the building as a holiday home vehicle access to the door would be required.
- Would access for refuse collection be doable after a wet period?
- Access to the site will be fine in good weather but not when soggy mud, snow and sandstorms.
- Holiday makers would need to get their belongings to the site creating more traffic.
- Existing soft sandy path barely wide enough for two pedestrians, yet the developer states there is an existing vehicular access which is untrue. Vehicle access is extremely rare and very limited even on the main forest tracks.
- The development will adversely impact Moray Coast Trail as road access will be required.
- If residents using the holiday home can use the Burma Road does this mean everyone can?
- How will it be ensured that emergency services can access the site in all weathers?
- Who will maintain the access?
- Access arrangements have not been agreed with Scottish Forestry.
- Access crosses tree roots.
- Access is narrow with trees hanging below 2 metres.

Comments (PO):

Transportation were consulted on the proposal and have no objections subject to conditions and informatives being attached to the planning consent if permitted.

The access track and car park proposed to be used are existing therefore no forestry is required to be removed in order to allow access to the site.

The Planning and Design Statement confirms that waste would be removed from the site and disposed of appropriately.

The maintenance of the access is a private matter given it is a private track. Suggestions that the use of the track by the applicant (or paying guests) accessing their property mean is open to all are misleading. The entrance would remain locked.

The applicant has confirmed that the emergency services will have the code to the locked gate on the B9080 access (access that the service vehicles etc will use) to enable them to be able to access the site if need be.

Traffic

- There should be no increase in traffic in the forest.
- The traffic will limit free rein access.
- The increased traffic will make it unsafe for children who play in the woods.
- Detail of number of vehicular movements have not been provided. Should be provided before application considered.
- Holiday traffic will be unpredictable for people using the paths.

Comments (PO):

Transportation were consulted on the proposal and have no objections subject to conditions and informatives attached to the planning consent if permitted. It should be noted that the proposal relates to one holiday unit, and the guests cars will remain next to the public road, therefore the service vehicle/vehicles would be the only vehicle regularly using the track. This would not amount to a substantive amount of traffic.

Parking

- Overnight parking is not permitted at Roseisle carpark why should this be any different?

Comments (PO):

The agent has confirmed that Forestry and Land Scotland have provisionally agreed the use of the main area car park being used.

Road Safety

- Will make the area unsafe with the introduction of regular traffic.
- No clear route for access vehicles – unknown when safe to let dog off the lead.
- Danger to the general public and wildlife having unmonitored vehicle usage in the forest.
- Would compromise the miles of safe footpath walks the area is treasured for.
- Increased risk of collision.

Comments (PO):

Transportation were consulted on the proposal and have no objections subject to conditions and informatives attached to the planning consent if permitted. The Moray Access Manager was also consulted and has no objections.

It should be noted that the proposal relates to one holiday unit, and the guests cars will remain next to the public road, therefore the service vehicle/vehicles

would be the only vehicle regularly using the track. This would not amount to a substantive amount of traffic.

Activity at unsociable hours/behaviour

- Noise levels in the area would be increased.

Comments (PO):

It is agreed that the proposal will cause increased activity in the area through the day and evenings. Perspective is required however as the proposal is for a single modest sized holiday unit.

Works Have Started

- Works have started with no planning permission or building warrant.
- Developer should be made to reinstate and repair all the damage caused by the works started.
- Over 40m of ground disturbance already taken place including new paths diverting the public away from the Bothy has started.
- The unspoilt coastal scenery is gone due to the works that have commenced and are unlikely to be restored.
- A retrospective planning application is required for the borehole but it was just lumped in with the existing application. Concerning the Council is allowing this.
- Retrospectively applying for consent for works may be done in future.
- Owners should be required to reinstate the site at their own expense.
- Presumptive to start works on site.

Comments (PO):

It is agreed that works have started without planning permission and as such a Temporary Stop Notice was served on the site on the 23rd of February 2023 to prevent any further works from taking place. An Enforcement Notice and further Stop Notice was served on the site/applicant on the 22nd March 2023. It is reasonable and appropriate to be consider the borehole water supply alongside the use it is proposed to serve.

Woodland/Trees

- Trees have already been felled.
- More forestry destroyed to make access roads, parking, laying of cables etc.
- Trees damaged for path to widen to allow for access to the site.
- Planning statement has untruths – (section 2:1) there have never been trees on the site.
- An unauthorised feeling investigation was completed by Scottish Forestry (8/6/22) after all the trees in the vicinity of the bothy were removed. This included a hawthorn tree.
- The drill rig for the water supply bore hole brought to the location damaged trees due to its size and should not have been used in this location. Photographs of damage were passed to Sottish Forestry.
- Forest would be split in two with the new access.
- Given the damage already inflicted on trees etc to allow machinery in for the borehole it is clear more will happen during the build.
- Illegal tree felling going on, full force of the law should be applied.

- Power lines through the forest would make forestry more difficult and would require a significant number of trees to be felled and would be a fire risk.
- Application states there are no trees on the site, this is because the trees have been felled.
- Trees have been removed without consent.

Comments (PO):

Permission was not required for the small number of trees that were felled on the site. Notwithstanding the removal of a number of trees, the site does occupy an existing clearing in the forest.

No power lines are proposed as part of the proposal.

Other

- Proposal has already been refused, thousands of members of the public (3000) have signed a petition against it. These voices deserve to be heard.
- The original proposals decision was appealed to the Scottish Government who still refused it. No should mean no.
- Suspect not as many will object here as many under the impression it has already been thrown out.
- Third attempt to build on this land – reasons for previous refusals still valid.
- Should not be allowed to be requested again, it has been previously refused for very good reasons.
- Area should be protected and conditions set that no more applications for development can be submitted for this location – ever. The Moray Council should protect it and compulsory purchase it.
- Locals and visitors do not want a holiday home in this location, there are plenty elsewhere.
- Ruin view of the sea.
- Due process is not being followed by developer given borehole constructed without planning permission. There is a disregard for proper planning regulations.
- Area needs to be left alone.
- If proposal site was being developed for the good of local people then would rethink however development is for profit only as far as can be told.
- Proposal will not stop horse riders leaving poo everywhere.
- With landownership you have certain rights but also responsibilities, one of which is to make it better for the future and to do nothing people do not want.
- Contradictory statements in planning statement – no change necessary to path that has already been widened.
- No community benefit.
- Holiday home would only benefit privileged few.
- Not preserving the Bothy in a historical sense.
- The original Bothy was free for the community and not just the privileged few.
- There are more suitable brownfield sites that already have drainage, power supplies in the surrounding towns and villages that are more suitable for holiday homes.
- Will public access to the site become limited on privacy grounds if permission granted?

- Proposal not well sited for solar panel electrical generation, likewise a turbine would require tree removal.
- How will the building be heated without local carbon emissions?
- Proposal limits accessibility to the beach.
- It will be unsafe for horse riders going through the woods meaning local businesses will lose customers.
- Proposal will pollute the area.
- Area better served as a natural walking area.
- Proposal is in no way different to original proposal.
- Area has great historical meaning to the people of the area.
- The memories of local families and the use of this bothy will be destroyed if it becomes yet another sanitised 'holiday home'.
- People are less likely to visit the area if turned into a holiday home.
- What is to stop the applicant fencing the area?
- A teaching/historic attraction would be accepted.
- Bothy should not be glorified hotel room with solar lights and a composting toilet.
- Overnight camping not permitted at Roseisle – why should this be any different?
- A sign explaining the Bothy's heritage would be more helpful to educate people.
- The area should not be made available to buy and destroy.
- Granting permission would negatively impact all communities in Moray by irrevocably altering the access and experience of the land.
- Area should not be owned by one person (family).
- Need more homes for locals not properties that are left empty for half the year.
- Holiday homes destroy communities and increase the exodus of young people.
- By starting works it shows no respect for the environment, for planning regulations or the planning authority.
- If people are constantly allowed to rip up green areas there will be none left.
- Building out here goes against being green, we are supposed to be aware of global warming.
- Safety concerns for all visitors while work is ongoing.
- The beach is listed as one of the top in the world, this should be a warning sign that it is not the place for building works and roads which would disrupt the demise of the woodland and coast.
- Applicants will continue until they win.
- The reasons the Scottish Government refused it have not changed in the ensuing period of time.
- In the future there will be huge coastline development from Lossiemouth to Findhorn should this be allowed.
- Building here would ruin scenic views of the sea and mountains.
- Holiday home occupancy is understood to be less than 70% so there is no demand for this.
- The site is the main access to the beach for horse riders and those with disabilities as it is the flattest access from the beach to the woods and building here would affect and prevent those using it.

- Lack of consultation with the local community and wider tourist community who frequent this area on a daily basis.
- Why build a holiday home somewhere so isolated.
- Some locals use this area for camping.
- More holiday accommodation is accounted for in the local development plan.
- The area is a natural place of interest.
- Preposterous idea in our current environmental climate.
- Decimation of a historical landmark.
- Virtually no job creation.
- Debris from the works undertaken has been left piled in a potentially hazardous way in an area with a high fire risk. It is claimed that construction will be carried out in an environmentally sympathetic way, this has already been shown to be untrue.
- Families visiting the area would be affected by safety issues.
- Bothies should be kept for emergency shelters.
- Proposal brings zero benefit to the local community.
- It would negatively impact recreational activities that take place on the site such as youth activities and sports which are a direct benefit of promoting a healthy lifestyle.
- Will put a burden on already stretched community resources e.g. emergency services, GP provision, waste and refuse disposal services.
- With the ever expanding cities and towns locally our green spaces will be gone forever.
- Bothy has been left to nature for 40 years and should be left alone.
- Coastal erosion is already occurring at this location, can be seen with the WW2 tank traps now on the beach.
- Technically will this be a 'Short Term Let' subject to the new SG legislation.
- There is no need to develop this site as there is land allocated locally for additional tourism accommodation. Within MLDP 2020 Vol 2: Settlement Statements there is a proposed extension to the caravan park in Burghead. The development of this area would provide additional holiday accommodation next to existing infrastructure and without introducing traffic to the coastal trail and without impacting on an area that is currently undeveloped.
- No mention of number of nights per year the bothy would be used.
- The previous use of the Bothy did not require it be serviced.
- Why has the application not been withdrawn pending a retrospective planning application for the borehole?
- Community is against this, the two previous planning applications for this site there were 42 comments supporting and 498 comments objecting.
- Ruins can serve a purpose for education and remembrance of the past, for example Duffus Castle. It could be stabilised and information boards erected.
- The Planning Statement states that the proposal is good for the environment but no evidence has been provided to demonstrate this therefore it's meaningless.
- How is the proposal going to enhance Roseisle forest as claimed in the Planning Statement?
- Increase of fire risk from residents of the bothy having bbqs.
- Proposal will encourage car use.

- Many nearby properties operate as Air B&Bs therefore there are plenty of holiday accommodation options in the area.

Comments (PO):

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area.

The proposal has changed from application (18/01453/APP) that was refused by the Scottish Government. The previous application (21/01334/APP) that is the same as the current was withdrawn therefore was not determined.

The borehole that has been drilled forms part of the current proposal albeit retrospectively. There would be no merit seeking to reverse works carried out to date until such time as the current planning application has been determined. Even afterward the potential disruption of seeking to reverse earth works already undertaken is likely to be counterproductive.

It is correct that path works form part of the proposal, this includes new paths being created.

If the applicant did wish to fence off the site, planning permission would be required. If a planning application was submitted for this it would be assessed under its own merits and would need to comply with the Moray Local Development Plan 2020 and the National Planning Framework.

The housing situation in Moray is a separate issue and is not relevant to this planning application.

The proposal being a purpose built tourist accommodation would if developed require a separate short term letting license. This is a separate process to planning permission.

The Moray Access Manager was consulted on the proposal and has no objections.

Support

- It is very important to restore this Bothy as an historical building where many late fishermen from the local area had employment.
- It is sad to see this building in such a state and seeing a historical building restored would be a great benefit to the local area for school children to see how their ancestors used to work at the Bothy.
- There will be no changes to the area for people to walk and enjoy the beach therefore the restoration of the Bothy is supported.
- Why would a proposal that is good for the environment and following all the rules not be supported?
- A caravan park and restaurant in Hopeman and many more holiday homes have been passed.
- Why are you not allowing this in Burghead on a much more ecological plan, seems unfair one rule for one and not another.
- Bothy dates back 1860 and is being restored as it was originally.
- It is a testimony to the fisher folk that worked there for it to be restored. Should be championed to protect and showcase our rich history.

- If left as it is it will be gone in 5 years which would be a crying shame.
- A boost to Morays tourism.
- The bothy is gradually disappearing due to vandalism, if the Council wishes to retain the local heritage then something needs to be done fairly quickly.
- The proposal will re-build the bothy back to original as practicable and with the restricted use will be maintained for the future and years to come.
- Doing nothing is disappointing. Recent developments in surrounding area is seen as progress.
- Bothy is currently unsightly and unsafe with litter and graffiti, it needs restored.
- Developer has every right to improve the Bothy to improve the area.
- Restoration will improve the view not worsen it.
- It's a beautiful location for a small holiday home.
- Sympathetic restoration being proposed by persons who have a connection with the bothy is a positive approach to the derelict building.
- Proposal is beneficial to the community and fishing heritage.
- Support the proposal as it plans to save and protect a site embedded in the history of a village and is meaningful to the fishing community who were the fabric of its society.
- It will benefit local economy.
- There is more than enough space with the proposal to accommodate wildlife.
- Any opportunities to optimise job opportunities should be supported in this climate.

8. OBSERVATIONS

8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 (NPF) and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

8.2 The main planning issues are considered below:

Background

8.3 There has been refusal of planning permission for tourist accommodation upon this site before, this included 8 holiday chalets and ancillary development (see history section). This differs notably in scale to the current proposal which seeks to renovate the existing building upon the site and provide a single holiday accommodation unit. It therefore requires to be assessed on its individual merits notwithstanding the previous planning decision and Scottish Government Reporters decision.

Special Landscape Area (NPF policy 4 and MLDP EP3)

8.4 NPF Policy 4 Natural Places states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. This includes any locally identified natural assets within local development plans. Policy 4 states that development proposals that effect a site designated as a landscape area in the Local

Development Plan will only be supported if they do not have significant adverse effects on the integrity of the area or the qualities for which it has been identified or any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

- 8.5 Policy EP3 Special Landscape Areas and Landscape Character covers the designation covering the site. Policy EP3 stipulates that proposals within Special Landscape Areas must not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation review and adopt the highest standards of design in accordance with policy DP1 and other relevant policies and minimise the adverse impacts on the landscape and visual qualities the area is important for.
- 8.6 The proposal site sits in the Culbin to Burghead Coastal Special Landscape Area (SLA). This SLA covers the coast and forests of Roseisle and Culbin which provide its immediate hinterland. The SLA is principally designated because of its importance for wildlife, recreation, its cultural heritage interest, and scenic quality.
- 8.7 The supporting Local Landscape Designation Review Final Report acknowledges the recreational provision at both Culbin and Roseisle but does not provide any further specific comments regarding Roseisle Forest. The applicants supporting statement states that Roseisle is more commercial in character and, while Culbin is described as less frequented and having a distinct sense of wildness, Roseisle is not referred to in the same way so the redevelopment of the bothy to form holiday accommodation would not be out of keeping with that character. It is not accepted that Roseisle Forest is commercial there are low key facilities provided including a small toilet block. In addition to this the lack of specific reference to Roseisle Forest does not mean that there are no areas of seclusion and naturalness.
- 8.8 Despite this area of the coast being easily accessible by car it offers an experience of seclusion and naturalness. The presence of tourism accommodation in the form of the redeveloped bothy would adversely affect the appreciation of these qualities and undermine the secluded character of the area. Outwith settlements existing infrastructure along the coast and within the immediate hinterland is minimal and principally comprises WWII defences which are of cultural significance. The Reporter in his decision to the previous refused application (18/01453/APP) stated that these historic remains serve to emphasise rather than undermine the secluded character of the area.
- 8.9 Within the NatureScot Landscape Character Assessment (LCA) 2019 the site sits within the Coastal Forestry landscape character area. The supporting designation text sets out the key characteristics which include the sense of seclusion imparted by a combination of the shelter and screening provided by mature tree stands, the mainly low-key recreational uses, the lack of development and distance from settlements and roads, the general lack of vehicle traffic. These characteristics are present at Millie Bothy. The introduction of tourist accommodation would diminish the contrast between this unspoilt open area and the surrounding forest and have an adverse impact on the character of the area and rural amenity. Within the Coastal Forest

Landscape Character Type, the LCA notes the presence of “nodes of activity” around small car parks and low-key recreation facilities. This is reflective of what is present at Roseisle and there may be limited scope for holiday accommodation in very close proximity to the existing car park within an existing opening in the woodland as this area has different characteristics than the Millie Bothy site.

- 8.10 EP3 also sets out the types of use that are acceptable within special landscape areas in rural areas (outwith defined settlement and rural grouping boundaries) which include proposals that involve an appropriate extension or change of use to existing buildings. Despite there being an existing structure on the site, given the special qualities of this locality in terms of seclusion and naturalness it is not deemed appropriate to develop this structure.
- 8.11 It is acknowledged that the redevelopment of the derelict bothy as tourist accommodation may have a small economic benefit however this is not considered to outweigh the significant adverse effects on this special landscape area.
- 8.12 In light of the above the proposal will negatively affect the integrity of the area and the qualities in which it has been identified for and this is not outweighed by social, environmental or economic benefits of at least local importance therefore the proposal is contrary to policies 4 and EP3.

Siting and Design (NPF 9 & 14 / MLDP PP1 & DP1)

- 8.13 NPF policy 9 Brownfield, vacant and derelict land and empty buildings does encourage the use of existing buildings, which the current proposal clearly does. Merit is therefore attached under NPF Policy 9 to the applicants proposed re-use of a derelict building and brownfield site. The re-use of building would see the existing resources used again and where the long term intention beyond tracks, parking and the infrastructure proposed the site become naturalised in use again (notwithstanding the excavations carried out to date).
- 8.14 NPF policy 14 Design, quality and Place is intended to encourage, promote and facilitate well designed development and requires development proposals to be designed to improve the quality of an area. In addition to this states development proposals for the reuse of existing buildings for short term holiday letting will not be supported where it will result in an unacceptable impact on local amenity or character of an area.
- 8.15 Policies PP1 and DP1 seek together to ensure that proposals meet siting and design requirements, these include development being of scale, density and character to its surroundings and integrating into the landscape, proposals not adversely impacting on neighbouring properties in terms of privacy daylight or overbearing loss of amenity.
- 8.16 The restored bothy’s proposed design is intended to reflect how the bothy would have originally appeared. The proposal seeks to retain as much of the existing ruin as possible, restoring the north eastern gable and recreating the original form of the south-east elevation. There is not an increase in the footprint of the original bothy, so visually extent of visual change arising from

the development has to be acknowledged as modest. Concern arising from the use and change in character of the area, which has been derelict for many decades, in which time the forests amenity value has been realised.

- 8.17 As set out above in the above section the introduction of tourist accommodation in this location would have an adverse impact on the special qualities of the site and immediate locality and have a detrimental impact on rural amenity therefore in terms of siting and design the proposal does not comply with policies PP1, DP1 and 14.
- 8.18 On balance, while the weight is attached to the re-use of the derelict building and site, and the design of the restoration is acceptable and in accordance with design principles set out in MLDP, the siting of the development and its wider implications bring it into conflict with all the above policies other than Policy 9 which has its focus on re-use brownfield sites.

Rural Business Proposal / Tourist Accommodation (NPF 29 & 30 / MLDP DP8)

- 8.19 Policy 29 seeks to encourage rural economic activity, innovation and diversification whilst ensuring the distinctive character of a rural area. Policy 30 aims to encourage, promote and facilitate sustainable tourism development which benefits local people and requires new tourist facilities to be compatible with the surrounding area in terms of the nature and scale of the activity and impact of increased visitors. In addition to this it states development proposals for the reuse of existing buildings for short term holiday letting will not be supported where it will result in an unacceptable impact on local amenity or character of an area. Policy 30 also states that proposals for tourism related development will take into account accessibility for disabled people.
- 8.20 The nearest parking to the bothy is the two spaces that are shown on the site plan for service vehicles located approx. 125 m for the bothy itself. It is assumed that if required these spaces could be used by disabled people. In terms of Building Standards requirements there should be an accessible route to the principle entrance of a building and accessible car parking within the curtilage of the building and the length of this accessible route should be no longer than 45m. Therefore the two spaces shown on the site plan for service vehicles are located too far from the bothy to provide an accessible access and consequently accessibility for disabled people has not been taken into account for this development as required by policy 30 Tourism. The Building Standards regulation is referred to as a guide as to what might be reasonable accessibility for disabled people under Policy 30b)v). Whilst the planning system is careful not to replicate the requirements of the Building Warrant process, NPF policy 30 has introduced the specific requirement for disabled access, so current building regulations are an appropriate bench mark to assess this matter until and if further guidance is provided on the matter from the Scottish Government.
- 8.21 The MLDP identifies Roseisle Forest as having opportunities for numerous activities including holiday lodges. Policy DP8 stipulates that proposals which contribute to Moray's tourism industry will be supported where they comply with relevant policies. A locational need for a specific site must be demonstrated. While identification within the Forestry and Woodland Strategy may provide a

locational justification for tourist related development within the forest, the proposal must also meet all the other policy requirements as detailed above and has failed to achieve this. In addition, despite there being an existing structure on site, given the special qualities of this locality in terms of seclusion and naturalness it is not deemed appropriate to introduce new development in this location in the form of the redeveloped bothy for holiday use.

- 8.22 The site is located within a remote rural area where development will only be supported where it is suitable in terms of location, access, siting, design and environmental impact. As set out above despite there being an existing structure on the site it is considered redevelopment of the bothy will have an adverse impact on the special qualities of this locality in terms of seclusion and naturalness and therefore it is not deemed appropriate to develop the structure.
- 8.23 As set out above the nature of the proposal is not considered appropriate in this specific location within the Roseisle Forest as it will have an adverse impact on the characteristics and special qualities of this area as detailed above therefore the reuse of the existing building for short term letting is not acceptable.
- 8.24 The proposal is therefore contrary to policies DP8, 29 and 30.

Woodland and Trees (NPF 6 / MLDP EP7 (including the Moray Forestry and Woodlands Strategy))

- 8.25 Policy 6 states that development proposals on sites which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design.
- 8.26 Policy EP7 states that proposals must retain healthy trees and incorporate them unless technically unfeasible. A small section in the north eastern area of the site is within the National Forest Inventory (NFI).
- 8.27 Some trees have been removed from the site however permission was not required for this. No trees or woodland are going to be significantly impacted by the proposal, as the bothy to be renovated already occupies a natural clearing in the woodland and seeks to re-use an existing ruined building.
- 8.28 Scottish Forestry were consulted on the proposal and have no objections to the proposal on the basis that no infrastructure or groundworks would impinge on the integrity of the contiguous woodland.
- 8.29 Policy EP7 states that proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of other relevant Local Development Plan policies. An extract of the strategy is included within the MLDP and identifies Roseisle as having opportunities for numerous activities including holiday lodges. Identification within the Forestry and Woodland Strategy may provide a locational justification for tourist related

development within the forest however no specific locations are identified and any proposal is subject to further assessment as part of the planning process and must meet all policy requirements.

- 8.30 As detailed above the development fails to meet all the policy requirements and is therefore contrary to policies EP7 and 6.

Access and Parking (NPF 13 / MLDP DP1)

- 8.31 NPF Policy 13 Sustainable Transport and MLDP Policy DP1 and require that proposals must provide a safe entry and exit from the development and conform with the Council's current policy on Parking Standards.
- 8.32 It is proposed to take vehicular access from an existing forestry access off the B9089 Kinloss to Burghead Road to the east of the site. Parking is to be undertaken within the existing informal parking area located adjacent to the B9089 Kinloss to Burghead Road or at the Roseisle Forest public parking area to the south with customers thereafter walking to the site. Two parking spaces and a turning area are to be provided on the application site for service vehicles.
- 8.33 Transportation have no objection to the proposal subject to conditions and informatives being attached to the consent if permission were to be granted. The conditions would require a minimum of the first 2m of the existing vehicular access (off the B9089 Kinloss to Burghead Road) surfaced in bituminous macadam and no water shall be permitted to drain or loose material be carried onto the public road carriageway.
- 8.34 Scottish Forestry were consulted on the proposal it is noted that access arrangements would have to be agreed with Forest and Land Scotland who manage the National forest Estate on behalf of Scottish Ministers. It has been confirmed that the applicant has a right of access through the forest.
- 8.35 Please note if the proposal was minded to be approved a condition would be attached to the consent asking for evidence that the landowner (Forestry and Land Scotland (FLS)) of the parking areas intended to be used gave their permission for this. This has not been sought given the proposal is being recommended for refusal however it is understood that a preliminary agreement is in place with FLS.

Natural Heritage Designations (NPF 4 / MLDP EP1)

- 8.36 NPF policy 4 Natural Places seeks to protect, restore and enhance natural assets making best use of nature-based solutions. Policy EP1 stipulates that development proposals likely to have a significant effect on Local Nature Reserves, wildlife sites or other valuable local habitats will be refused unless it can be demonstrated that any potential impacts can be satisfactorily mitigated to conserve and enhance the site's residual conservation interest (amongst other things).
- 8.37 The bothy is located within the dunes, around 70/80 metres from the beach, partially screened by the dune topography, and around 120 metres from the mean high water level. The scheduled features of the Moray Firth are its

subtidal communities and its dolphin and bird populations comprising offshore marine species. The development site lies within 300m of the Moray Firth Special Area of Conservation (SAC) and Moray Firth Special Protection Area (SPA). The SAC is designated for its bottlenose dolphin population and subtidal sandbanks. The SPA is designated for its populations of breeding shag and non-breeding common scoter, eider, goldeneye, great northern diver, long-tailed duck, red breasted merganser, red-throated diver, scaup, shag, Slavonian grebe and velvet scoter.

- 8.38 These sites' status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, the Moray Council is required to consider the effect of the proposal on the SAC and SPA before it can be consented (commonly known as Habitats Regulations Appraisal (HRA)).
- 8.39 The proposal is unlikely to have significant effect on the qualifying interests of the SAC and SPA.
- 8.40 In an assessment of the implications for the site in view of the site's conservation objectives the following assessment was made (this ensures that for the qualifying species that the following are maintained in the long term) - Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC and SPA depend, will not be adversely affected.
- 8.41 The applicant will be required to carry out works in such a way that will not pose a risk of pollution to the marine environment, following all relevant guidance. Of note the septic tank and soakaway for the development if it were to proceed would need a Building Warrant which looks at the details of the foul drainage arrangements.
- 8.42 Nature Scot were consulted on the proposal and have advised that it is unlikely that the proposal will have a significant effect on any qualifying interests of the Moray Firth SAC or Moray Firth SPA, either directly or indirectly therefore an appropriate assessment is not required.

European Protected Species / Biodiversity (NPF 3 / MLDP EP1)

- 8.43 Nationally protected species are defined in the Wildlife and Countryside Act 1981 and are pertinent to policy EP1 and NPF policy 3 Biodiversity any development proposals that would have an adverse effect on a European Protected Species will not be approved. Policy 3 also seeks to protect, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Local development is required to include appropriate measures to conserve, restore and enhance biodiversity.
- 8.44 An Ecological Impact Assessment (dated June 2021) was submitted with the proposal. The purpose of the survey and assessment were to determine any potential impacts from the development on designated sites, natural habitats, protected mammals and birds on and around the site and to propose mitigation

where required. No evidence of bats using the Bothy was found in this survey. A single otter print was found on a mink raft (foot print trap) located on the burn.

- 8.45 The previous planning application on the site (18/01453/APP) that was refused had an Ecological Survey and Assessment (dated October 2018) and Bat Roost Assessment (dated July 2019) submitted with it. The Ecological Survey and Assessment report confirmed that the area is used by otters. The Bat Roost Assessment indicated that the Millie Bothy is used as a bat roost - a single pipistrelle bat was found within the stonework during a roost assessment in April 2019.

Bats

- 8.46 Regulations 39 and 43 of the Habitats Regulations provide full protection for certain animals and plant species. All species of bats in the UK are European Protected Species (EPS).
- 8.47 The Ecological Impact Assessment judged that the bothy in its current state of dilapidation with all walls open to the elements was unlikely to provide a suitable roosting location for bats. This view is consistent with the findings the survey by A9 Consulting in 2019 (Bat Roost Assessment) where activity surveys failed to record bats in the proximity of the building, though occasional passes by pipistrelle bats over the site were recorded.
- 8.48 The location where the A9 Consulting 2019 (Bat Roost Assessment) survey located a roosting pipistrelle was examined with the endoscope and found to be empty with no signs of any use by bats. Smaller cavities are present where the stonework is starting to crumble, mainly on the internal face of the west gable wall. Here, all cavities could be inspected.
- 8.49 Inspections of the bothy and the bat activity surveys undertaken by A9 consulting in 2019 suggest that bats do not use the bothy as a summer roost (and no hibernation roosting potential has been identified), there is a low risk that roosting bats could be found using the few deeper recesses in early spring or autumn when bats are moving between permanent roosts. All cavities will be examined during the works to ensure that no bats, or breeding birds, are present.
- 8.50 Given the results of the previous surveys for bats, and the current inspection for potential bat roosts, no adverse impacts upon individual bats or the local population are predicted. A bat licence would not be required for the works.

Otters

- 8.51 The Ecological Impact Assessment confirms that the area is used by otters.
- 8.52 A mink raft (foot print trap) located along the burn contained an old otter print in the clay tray indicating that occasional passage of otters along the burn. This is consistent with the conclusions of the 2018 survey where signs were located upstream, beyond the site boundary.

- 8.53 The Ecological Impact Assessment (page 16) states the project will avoid any night-time working and with the bothy located around 20 metres from the burn, and currently screened by scrub, no disturbance to the occasional passage of otters is likely. This mitigation is deemed acceptable.
- 8.54 Given the proposal has been recommended for refusal no measures to conserve, restore and enhance biodiversity have been sought however if permitted a condition would be attached to the consent asking for bird/boxes to be provided on site.
- 8.55 If permitted a condition would be attached to the consent that would require adherence with the mitigation and methodologies proposed within the Ecological Impact Assessment.
- 8.56 Subject to the above mitigation and methodologies, the proposal is compliant with the requirements of policy 3 and EP1.

Water Supply (NPF 22 / MLDP DP1 and planning policy guidance)

- 8.57 Policies 22 Flood risk and Water Management and DP1 (iii) Development Principles seek together to ensure that an adequate and wholesome water supply can be supplied to the site. It is preferred that proposals are connected to the public water mains however when this is not feasible it has to be demonstrated that water for drinking purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.
- 8.58 The site plan shows a borehole that has been drilled which was intended to supply the Bothy with water however due to unforeseen circumstances it is unclear at the time of writing this report if the borehole can be used.
- 8.59 The Private Water department were consulted on the proposal and in order for it to be ascertained that a sufficient and wholesome water supply could be provided as required by policy the following information was requested in September 2015:
- A water yield report with full details of the method used to estimate the yield.
 - A chemical sample of water taken from the water source by a professional and relevant third party and analysed at a UKAS Accredited laboratory and less than 12 months old (from date of sampling) at the time of application. (Parameters must include: Conductivity, pH, Lead, Nitrate, Sodium, Chloride, Odour, Taste, Turbidity, Iron, Manganese).
- 8.60 To date this information has not been provided therefore Private Water and Environmental Health object to the proposal on the grounds that it has not been demonstrated that a sufficient and wholesome water supply can be provided to the site. In light of this the proposal is contrary to policies 22 and EP13.

Drainage (NPF 22 / MLDP DP1 & EP12)

- 8.61 Policies DP1, EP12 and 22 together to seek to ensure that acceptable water and drainage provision is made, including the use of sustainable urban drainage (SUDS).

It is proposed that surface water run-off from the proposed renovated Bothy's impermeable roof area and grey water is diverted to a surface water soakaway and dispersed to ground and that the proposal be served with a compostable toilet.

The system has been designed for a 1 in 30 year event with a 35% additional allowance in rainfall intensity for climate change. As mentioned elsewhere in the report, the proposed foul drainage and soakaway arrangement is scrutinised more fully at the building warrant stage.

- 8.62 Moray Flood Risk Management (MFRM) and the Scottish Environment Protection Agency (SEPA) were consulted on the proposal and have no objections in terms of drainage, the criteria in the policies has been met.

Flooding (NPF 10 & 22 / MLDP DP1, EP12 and EP17)

- 8.63 These policies seek together to ensure development would not be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term. Policy 10 Coastal Development identifies that development proposals in undeveloped coastal areas will only be supported where they meet a certain criteria. MLDP policy EP17 Coastal Change New development will not generally be supported in areas that are vulnerable to adverse effects of coastal erosion and/or wider coastal change as identified in Scotland's Dynamic Coast project (National Coastal Change Assessment).
- 8.64 NPF4 policy 22 Flood risk and Water Management and EP12 Management and Enhancement of the Water Environment considers other types of flood risk, beyond the coastal issues raised in policy 10 above.
- 8.65 Moray Flood Risk Management (MFRM) and the Scottish Environment Protection Agency (SEPA) were consulted on the proposal due to the site lying being partially within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of fluvial flooding from the Millie Burn.

Coastal Flood Risk

- 8.66 In terms of coastal flood risk, the approximate 1 in 200-year coastal flood level is 3.24mAOD based on calculations using the Coastal Flood Boundary Method. This is a still water level which does not account for the effects of wave action, climate change, funnelling or local bathymetry. The recommended sea level rise for the area is 0.87m by 2100 based on the latest UK climate change predictions published in 2018. This allowance, plus a minimum freeboard allowance of 0.6m to account for uncertainties and the effects of wave action, means that SEPA recommend that this development is limited to land which is higher than 4.71mAOD. Plans submitted with the previous application (18/01453/APP) at this site show that the bothy is sited on ground with approximate levels of 5.5mAOD. Therefore, the bothy is located outwith the Coastal Flood Map plus allowances for climate change and freeboard.

Fluvial Flood Risk

- 8.67 In terms of fluvial flood risk, previously submitted plans indicate that, although the land on the opposite side of the burn to the site is lower, the bank is higher. However, the ground is undulating in the area and as the ground levels between the bothy and the Millie Burn rise, they are higher than that of the opposite bank. As such, any out-of-bank flow on the side of the site is limited by the height of the opposite bank which is likely to overtop and drain before the flows reach a depth which would impact the bothy. Therefore, from the information available, it is unlikely that the bothy is located within the functional floodplain of the Millie Burn.

Coastal Erosion

- 8.68 The Dynamic Coast Webmaps identify that the site is within the Eroded Area and the Future Mean High Water Springs (MHWS) level for the 2100 High Emissions Scenario. It is also close to the Vicinity Area for the 2050 High Emissions Scenario. Therefore the proposal does not meet the requirements for policy 10b), as it does not meet any of the categories raised – it does not negate the requirement for coastal defences, prevent the increase of risk to people from coastal flooding or erosion, or evidence that it is supportable in the long-term taking into account projected climate change.
- 8.69 The design statement does not meet the requirements of Policy 10d), it must take into account the impact that the planning application might have on the coast and long-term coastal vulnerability and resilience.
- 8.70 The SEPA Flood Maps indicate that the access/egress route for the proposal is within the 0.5% flood risk area. The applicant has not provided any details for how the proposal has a route for the movement of people, or those requiring mobility assistance to a safe place.
- 8.71 MFRM originally had no objection to the proposal, but this was prior to the adoption of NPF4. MFRM were re-consulted after NPF4 was adopted and for the reasons detailed above in the Coastal Erosion section they now object to the proposal.
- 8.72 SEPA have no objection subject to a condition being attached to the consent (if permitted) that the finished floor levels of the Millie Bothy should include a minimum of 600mm freeboard above present ground levels. Please note SEPA were re-consulted after the adoption of NPF4 and they confirmed that their response remained the same as their previous one.
- 8.73 The dynamic coastal issues see the proposal contrary to NPF policy 10 and MLDP policy EP17 coastal change.

Sustainability (NPF 1 and 2)

- 8.74 Policy 1 states that significant weight will be given to the global climate and nature crisis. Policy 2s intent is to encourage, promote and facilitate

development that minimises emissions and adapts to the current and future impacts of climate change.

- 8.75 The development proposes to have solar lights and be heated by a wood burning stove. Both of these are classed as environmentally friendly options in terms of lighting and heating. In terms of the scale of the proposal and proportionality to these policies the proposed measures are deemed acceptable therefore the proposal complies with policies 1 and 2.

Conclusion and Recommendation

A large number of representations have been received that dispute the proposal and after the assessment of all the material considerations it is felt that these claims are justified and as detailed above the proposal doesn't comply with policies 4, 10, 14, 22, 29 and 30 of the National Planning Framework and policies PP1, DP1, EP3, EP7 and EP17 of the Moray Local Development Plan 2020. The reasons for this include the introduction of tourist accommodation and the associated intensification of activity in this remote coastal special landscape area is an incompatible use that would have adverse effects on the integrity of the area and the qualities it has been identified for. The woodland experiences a high level of recreational use and creating an area within where privacy is implied would be incongruous with the public access enjoyed at present. The proposal fails to take account of accessibility requirements for disabled people and it has not been demonstrated that a wholesome and adequate water supply can be obtained to supply the site. It also does not take into account climate change.

It is recommended that the application is refused.

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