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## **Planning and Regulatory Services Committee**

**Tuesday, 20 August 2019**

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Planning and Regulatory Services Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 20 August 2019** at **09:30**.

### **BUSINESS**

**1 Sederunt**

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

**3 Resolution**

Consider, and if so decide, adopt the following resolution:  
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 13 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

**4 Minutes**

**4a) Minute of Meeting dated 21 May 2019** **7 - 18**

**4b) Minute of Meeting dated 25 June 2019** **19 - 28**

**5 Written Questions \*\***

**Guidance Note** **29 - 30**

- |           |   |                  |
|-----------|---|------------------|
| <b>6</b>  | <b>Planning Application 19/00211/APP</b>  | <b>31 - 64</b>   |
|           | Report by Appointed Officer   |                  |
|           | Change of use of farm sheds to whisky cask warehouses and general storage sheds at Viewfield Farm, Craigellachie, Aberlour, Moray for Forsyths Ltd  |                  |
| <b>7</b>  | <b>Planning Application 18/01373/APP</b>  | <b>65 - 142</b>  |
|           | Report by Appointed Officer   |                  |
| <b>8</b>  | <b>Planning Application 19/00513/APP</b>  | <b>143 - 176</b> |
|           | Report by Appointed Officer   |                  |
|           | Erect dwellinghouses with off street parking on Plots 45 - 48 St John Ogilvie Way, Keith, Moray, AB55 5LA for Morlich Homes Ltd   |                  |
| <b>9</b>  | <b>Planning Application 19/00320/PPP</b>  | <b>177 - 262</b> |
|           | Report by Appointed Officer   |                  |
| <b>10</b> | <b>Proposal of Application Notice - 19/00686/PAN</b>  | <b>263 - 268</b> |
|           | Report by Corporate Director (Economic Development, Planning and Infrastructure)  |                  |
|           | Phased re-model and re-build of existing distillery including new evaporator bio-plant boiler house, still house, tun room and mash house, new visitors parking/access and associated landscaping at Aberlour Distillery  |                  |
| <b>11</b> | <b>Proposal of Application Notice - 19/00783/PAN</b>  | <b>269 - 276</b> |
|           | Report by Corporate Director (Economic Development, Planning and Infrastructure)  |                  |
| <b>12</b> | <b>Question Time ***</b>  |                  |
|           | Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.  |                  |
| <b>13</b> | <b>Breach of Planning Control on Land in Elgin</b>  |                  |
|           | <ul style="list-style-type: none"> <li>Information, which if disclosed to the public, would reveal that the Authority proposes, for the purposes of consultation, make an order or direction under any enactment which might allow an individual or organisation to defeat the purpose of the notice or order;</li> </ul> |                  |

## **Summary of Planning and Regulatory Services**

### **Committee functions:**

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

**Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.**

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

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

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

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

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

Clerk Name: Lissa Rowan  
Clerk Telephone: 01343 563015  
Clerk Email: lissa.rowan@moray.gov.uk



# **THE MORAY COUNCIL**

## **Planning and Regulatory Services Committee**

### **SEDERUNT**

Councillor David Bremner (Chair)  
Councillor Amy Taylor (Depute Chair)  
Councillor George Alexander (Member)  
Councillor John Cowe (Member)  
Councillor Gordon Cowie (Member)  
Councillor Paula Coy (Member)  
Councillor John Divers (Member)  
Councillor Ryan Edwards (Member)  
Councillor Claire Feaver (Member)  
Councillor Louise Laing (Member)  
Councillor Marc Macrae (Member)  
Councillor Aaron McLean (Member)  
Councillor Ray McLean (Member)

Clerk Name: Lissa Rowan  
Clerk Telephone: 01343 563015  
Clerk Email: [lissa.rowan@moray.gov.uk](mailto:lissa.rowan@moray.gov.uk)



**MINUTE OF MEETING OF THE PLANNING AND REGULATORY SERVICES  
COMMITTEE**

**21 MAY 2019**

**COUNCIL CHAMBERS, ELGIN**

**PRESENT**

Councillors Bremner (Chair), Taylor (Depute), Alexander, Cowie, Coy, Divers, Feaver, Laing, Macrae, A McLean and R McLean.

**APOLOGIES**

Apologies were intimated on behalf of Councillors Cowe and Edwards.

**IN ATTENDANCE**

The Head of Development Services, Development Management and Building Standards Manager, Legal Services Manager, Mr MacPherson, Principal Planning Officer, Mr Smith, Principal Planning Officer, Mr Templeton, Principal Planning Officer, Mrs Anderson, Senior Engineer Transport Development, Ms MacDougall, Planning Officer and Mrs Rowan Committee Services Officer as Clerk to the Committee.

**1. DECLARATION OF GROUP DECISIONS AND MEMBERS INTERESTS**

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

**2. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE  
DATED 26 MARCH 2019**

The minute of the meeting of the Planning and Regulatory Services Committee dated 26 March 2019 was submitted and approved.

**3. WRITTEN QUESTIONS**

The Committee noted that no written questions had been submitted.

#### **4. PLANNING APPLICATION 19/00100/APP**

##### **Ward 5: Heldon and Laich**

**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**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted in respect of an 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.

The Meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major development with more than 50 houses, and the site area exceeds 2ha. The report also advised that Members of the Committee visited the site of the application on 17 May 2019.

During discussion surrounding the SUDS basins located on the site, whilst it was recognised that the basins were necessary to prevent flooding, concern was raised that they were being included in the 31% green space requirement for each development as they were not accessible green space.

In response, Mr MacPherson, Principal Planning Officer advised that SUDS basins are classed as green space and are usually encouraged to be landscaped as such however as the site is near to the RAF base, the Applicant had been encouraged to make the SUDS basins less habitable for birds by making them dry so as not to attract too many birds. This was in line with guidance from the Civil Aviation Authority.

Councillor Feaver acknowledged that the application was to vary several conditions in the original planning application however with regard to the repositioning of the SUDS basin in phase 1 moved that underground tanking be carried out and covered as an open space so that it would form open green space and be accessible and multifunctional in line with current planning policy.

The Development Management and Building Standards Manager advised that the planning application before the Committee was to vary conditions to the original application and amend the layout that had already been approved. She further advised that the application had been consulted upon with the Ministry of Defence (MOD) who had raised no objection to the proposals and that if the Committee were minded to suggest a change in the design to the SUDS basins, that would require further consultation with SEPA, the Flood Team and the MOD.

Following consideration of the advice from Officers, Councillor Feaver agreed to withdraw her motion however asked that future planning applications ensure that

engineering SUDS works are not included in the open space allocation for each development as they were not accessible open green space.

In response, the Head of Development Services advised that, whilst he appreciated Councillor Feaver's opinion in terms of open green space in developments, in terms of current planning policy blue/green space should be delivered in the context of the site and that this development was constrained due to bird issue highlighted by the MOD.

Thereafter, the Committee agreed to grant planning permission in respect of Planning Application 18/01561/APP as recommended subject to:

- (i) a variation to the existing Section 75 legal agreement for Sunbank 14/01486/APP; and
  - (ii) the following conditions and reasons subject to an amendment to condition 25 which should refer to phase 5b instead of phases 6 and 7.
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  $L_{Aeq16h}$  (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 5b 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 5b. 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 be 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 be 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.

**5. ELECTRICITY ACT 1989 (AS AMENDED) SECTION 37 CONSULTATION FOR THE PROPOSED NORTH EAST 400KV OVERHEAD LINE REINFORCEMENT BETWEEN BLACKHILLOCK, PETERHEAD AND KINTORE ELECTRICITY SUBSTATIONS, AND RECONFIGURATION OF THE OVERHEAD LINE AT KEITH FOR SCOTTISH HYDRO ELECTRIC TRANSMISSION PLC**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider a proposed response to a consultation request from the Scottish Government Energy Consents Unit (SGECU) regarding a Section 37 application and accompanying Environmental Impact Assessment Report (EIAR) for consent to construct and operate a 400 kilovolt overhead line (OHL) reinforcement between Blackhillock, Peterhead and Kintore substations, and reconfigure a section of the existing OHL on the outskirts of Keith.

Following consideration, the Committee agreed:

- (i) to note the contents of the report including the conclusions made regarding the planning merits of the development, as detailed in Section 3;
- (ii) where taking into account the Moray Local Development Plan (MLDP) 2015 and all relevant material considerations, Moray Council raises no objection to the Section 37 application, subject to the conditions set out in Appendix 1 of the report; and
- (iii) to instruct the Head of Development Services to advise the Energy Consents Unit of the decision of this Committee.

**6. MORAY EMPLOYMENT LAND AUDIT 2019**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the key findings of the Moray Employment Land Audit 2019 and asked that the audit be agreed. The report stated that the audit identified that there is 79.84 hectares (net) of marketable/effective employment land, of which 39.15 hectares (net) is immediately available.

The Committee joined the Chair in congratulating Officers for the work undertaken to achieve the results detailed within the audit report and thereafter agreed:

- (i) to note the employment land supply in Moray, as summarised in Section 4 and Appendix 1 of the report; and
- (ii) the finalised Moray Employment Land Audit 2019 as set out in Appendix 2 of the report.

## **7. HOUSING LAND AUDIT 2019**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) summarised the housing land supply situation in Moray and asked the Committee to agree the final version of the Moray Housing Land Audit 2019. The report stated that the audit identified that there is a 7.8 year effective supply of housing land with a total 23 year established land supply in Moray.

During his introduction, Mr Templeton, Principal Planning Officer pointed out a typo in the report at paragraph 4.4 which read “identified in the HNDA of 12,387” which should read “identified in the HNDA of 538 units”. This was noted.

The Committee joined the Chair in congratulating Officers for the work undertaken to achieve the results detailed within the audit report and thereafter agreed:

- (i) to note the housing land supply in Moray; and
- (ii) the finalised Moray Housing Land Audit 2019 as set out in Appendix 1 of the report.

## **8. CONFIRMATION OF STOPPING-UP OF SECTION OF U123E MOSS OF BARMUCKITY ROAD, ELGIN**

A report by the Head of Legal and Democratic Services asked the Committee to confirm, as an unopposed Order, “The Moray Council (Section of U123E Moss of Barmuckity Road - Stopping-Up) Order 2018.”

Following consideration, the Committee agreed to confirm as an unopposed Order, “The Moray Council (Section of U123E Moss of Barmuckity Road - Stopping-Up) Order 2018” and instructed the Head of Legal and Democratic Services to make the Order.

## **9. DEVELOPMENT SERVICES PERFORMANCE REPORT – HALF YEAR TO MARCH 2019**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) inform the Committee of performance of the service for the period from 1 October 2018 to 31 March 2019. The report stated that, at the end of the reporting period, 93% of the performance indicators showed good performance and the 2018/22 Service Plan was 85% complete.

Following consideration, the Committee welcomed the good performance as indicated in the report and thereafter agreed to note:

- (i) performance against Planning and Regulatory performance indicators; Service Plan; and Complaints to the end of March 2019 as outlined; and
- (ii) the actions being taken to improve performance where required.

## **10. QUESTION TIME**

Councillor Aaron McLean stated that he had become aware of an incident in Midlothian Council where 2 Labour Councillors had been suspended by the Standards Commission for speaking with a constituent in relation to a planning application. He further stated that, in a demonstration of support for the 2 Councillors involved, 10 other Councillors had walked out of the Planning Committee as they were of the view that the 2 Councillors in question had been treated unfairly by the Standards Commission. Councillor McLean stated that Members were often approached by constituents either via email, Community Council meetings or Councillor Surgeries in relation to planning matters and asked if Legal Services could provide guidance to Elected Members in this regard.

In response, the Legal Services Manager advised that this incident had recently been brought to the attention of Legal Services and that the Head of Legal and Democratic Services was trying to get further detail. She advised that there appeared to be more to the incident in that the Councillors involved appear to have suggested modifications to the planning application based on the concerns of the objector however was of the understanding that the 2 Councillors in question were planning to appeal against the suspension. The Legal Services Manager advised that further guidance would be arranged in due course and that, whilst there was a protocol in place for Planning and Regulatory Site Visits, there had been some issues surrounding Moray Local Review Body site visits, therefore it was her intention to submit a report to a future meeting of Moray Council in this regard.

**MORAY COUNCIL**

**MINUTE OF THE SPECIAL MEETING OF THE PLANNING & REGULATORY  
SERVICES COMMITTEE**

**25 JUNE 2019**

**COUNCIL CHAMBERS, ELGIN**

**PRESENT**

Councillors Bremner (Chair), Taylor (Depute), Alexander, Cowie, Coy, Divers, Feaver, Laing and A McLean

**APOLOGIES**

Apologies for absence were intimated on behalf of Councillors Cowe, Edwards, Macrae and R McLean.

**ALSO PRESENT**

Councillor Ross

**IN ATTENDANCE**

Head of Development Services; Development Management and Building Standards Manager; Mr MacPherson, Principal Planning Officer; Mr Smith, Principal Planning Officer; Mr Templeton, Principal Planning Officer; Mrs Anderson, Senior Engineer (Transport Development); Mr Burnish, Senior Engineer (Flood Risk Management); Mrs Emma Gordon, Planning Officer; Acting Housing Strategy and Development Manager; Legal Services Manager and Mrs Lissa Rowan, Committee Services Officer as Clerk to the Meeting.

**1. Welcome**

The Committee joined the Chair in welcoming Callum Blake from Buckie High School who was gaining insight into the Council as an organisation and the role of an Elected Member.

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

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Divers declared a personal interest in item 3 on the agenda "Planning Application 18/01497/APP - Revised residential development and associated infrastructure at R6 Banff Road, North Banff Road, Keith, Moray for Springfield Properties PLC" as his son is employed by the Developer.

There were no other declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

### **3. Planning Application 18/01497/APP**

**Councillor Divers left the meeting at this juncture.**

#### **WARD 2: Keith and Cullen**

##### **18/01497/APP Revised residential development and associated infrastructure at R6 Banff Road, North Banff Road, Keith, Moray for Springfield Properties PLC**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission is granted in respect of an application for a revised residential development and associated infrastructure at R6 Banff Road, North Banff Road, Keith, Moray for Springfield Properties PLC.

The Committee noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major development as defined under the Hierarchy Regulations 2009 for a housing development with more than 50 houses, and the site area exceeds 2ha. The report also advised that Members of the Committee visited the site of the application on Thursday 20 June 2019.

During his introduction, Mr Smith, Principal Planning Officer advised that a further condition (Condition 15 below) had been added to address missing information on the landscape plan, levels layout plan and the submission of further details in relation to retaining wall structures should these change. This was noted.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 18/01497/APP as recommended subject to:

- (i) the completion of a new legal agreement to incorporate developer obligations relating to healthcare provision: and
- (ii) the following conditions and reasons including the additional condition (15) to address missing information on the landscape plan, levels layout plan and the submission of further details in relation to retaining wall structures should these change:
  - 1. Prior to any works commencing on site, evidence shall be submitted and approved by the Council, as Planning Authority which confirms that a Construction Traffic Management Plan (CTMP) has been submitted and agreed with the Moray Council Transportation Section. Thereafter, construction works shall be completed in accordance with the approved Construction Traffic Management Plan unless otherwise approved in writing by the Planning Authority in consultation with the Transportation Section.  
  
**Reason** - To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
  - 2. Prior to any works commencing on site, details (plan at minimum scale 1:500) shall be submitted to and approved by the Council as Planning Authority, in consultation with Transportation Section showing a continuous 3m wide



cyclepath along the site frontage onto the A95 and extending west of the site boundary to a point approximately 23m west of the Glenisla Home access onto the A95. These details shall also include dropped kerb crossings with tactile paving at the Glenisla home access. Thereafter, construction of the frontage path shall be completed in accordance with the approved details prior to commencement of the 5th unit of housing unless otherwise agreed in writing with the Planning Authority in consultation with the Transportation Section.

**Reason** - To ensure an acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

3. Notwithstanding the details shown on submitted Drawing No. KE03-ENG-700, a visibility splay of 4.5m x 208m to the left (east) and 4.5m by 90m to the right (west) shall be provided and maintained at the site access onto the A95 for the lifetime of the development unless otherwise agreed in writing by the Planning Authority in consultation with the Transportation Section.

**Reason** - To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.

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

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

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

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

6. Parking provision shall be provided in accordance with the approved site layout plan. No house or flat shall be occupied until parking has been provided and made available for use by that house or flat and the parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved unless otherwise agreed in writing by the Planning Authority in consultation with the Transportation Section.

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

7. Prior to the commencement of development details of the affordable housing specification shall be submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site in

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

**Reason** - To ensure all of the residential units approved on site are affordable and managed accordingly.

8. That the landscape arrangements and equipped play area for the site shall be carried out in accordance with the approved Landscaping Layout drawing number KE03\_SL\_PL\_003 Rev D, Landscape Management Plan and Phasing Plan drawing number KE03\_SL\_PL\_004 Rev D. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

**Reason** - To ensure that the approved landscaping works and equipped play area are timeously carried out and properly maintained for the lifetime of the development, in a manner which will not adversely affect the development or amenity and character of the area.

9. That the surface water drainage arrangements for the site shall be in accordance with the approved Drainage Assessment dated November 2018, Drainage Statement dated 2 April 2019, prepared by Mike Gemmell Design Ltd, Ditch Drainage Assessment titled 1/190400 prepared by Cameron and Ross, and associated drainage drawings submitted in support of this application. No dwelling shall be occupied until it is connected to the SUDS scheme as detailed within the approved Drainage Assessment, Statement and drawings.

Notwithstanding the above details, the SUDs detention basin 1 located within the southern part of the site shall be lined to ensure that it is impermeable in design (in accordance with details previously agreed by the Council, as Planning Authority, in consultation with Moray Flood Risk Management), unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason** - To ensure an acceptable form of development is provided in accordance with the submitted drainage information and drawings, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development and to ensure no increase in groundwater levels in the locality of the site.

10. Prior to the SUDS arrangements being connected to the discharge outlets the following works shall be completed to ensure that the ground condition/levels within the adjacent drainage ditches/watercourses to the north and south of the site is as indicated in the document entitled, Existing Ditch Capacity Check (I/190400) dated April 2019, prepared by Cameron & Ross.

The works to the north ditch shall include:

- Clearance of debris/vegetation within the north ditch to ensure provision of the cross section is as indicated in the Existing Ditch Capacity Check (I/190400) document, prepared by Cameron & Ross, for a length of 20 metres upstream (west) of the discharge headwall and downstream (east) of the discharge headwall to the cemetery access footpath culvert.
- Jetting of the cemetery access footpath culvert to ensure full capacity is

available.

The works to the south ditch shall include:

- Clearance of debris/vegetation to ensure a cross section as indicated in the Existing Ditch Capacity Check (I/190400) document, prepared by Cameron & Ross document for a length of 25 metres upstream (West) and downstream (East) of the discharge headwall to the culvert access.

Written agreement that the above works have been undertaken to the satisfaction of the Council following an accompanied on-site inspection by the Moray Flood Risk Management (MFRM), (to be arranged between the applicant and MFRM with prior 48 hours notice given of the date/time of the inspection) shall be provided by the developer prior to the SUDS arrangements being connected.

Thereafter, in terms of long term maintenance arrangements, the ditches shall be cleaned and maintained in accordance within the measures and inspection regime outlined within Section 9 'Mitigation' of the Existing Ditch Capacity Check (I/190400) document, prepared by Cameron & Ross for the lifetime of the development.

**Reason** - To ensure an acceptable form of development is provided in accordance with the submitted Drainage Assessment(s), and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development.

11. No development shall commence until the Scotland Gas Networks (SGN) medium pressure gas main which currently runs through the development site (the location of which is shown on the SGN apparatus plan accompanying this decision notice) has been diverted in agreement/consultation with SGN, and evidence to this effect has been submitted to and approved by the Council, as Planning Authority in consultation with SGN.

**Reason** – To ensure that the Scotland Gas Networks infrastructure currently on the site is safely diverted prior to commencement of development.

12. No development shall commence until scaled drawings of the proposed pumping station have been submitted to and approved in writing by the Council, as planning authority. The development shall be implemented in accordance with the approved details.

**Reason** – To ensure a satisfactory form of development and as these details are currently lacking from the application.

13. No development shall commence until the results of a pre-construction badger survey undertaken by a suitably qualified person (as recommended in the accompanying Badger Survey by Rachel Finan Ecology), have been submitted to and approved by the Council, as Planning Authority, in consultation with Scottish Natural Heritage. In the event that badgers are discovered on or near the site, no works shall take place in that area until appropriate mitigation measures have been agreed in consultation with Scottish Natural Heritage. Thereafter all works shall be carried out in accordance with these details.

**Reason** - To ensure the adequate protection of the protected species.

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

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

15. Prior to the commencement of development the following revised/additional plans shall be submitted to and approved in writing by the Council, as Planning Authority.

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

- a) Landscaping Layout drawing number KE03\_SL\_PL003 Rev D updated to include
  - i) a reference 'QR' English Oak within the Planting Schedule to correspond with the 'QR' annotations on the layout plan,
  - ii) the stand-off buffer for the existing overhead electricity line re-aligned to run parallel with the overhead line, to include appropriate low shrub planting and
  - iii) the annotations stating 'infiltration basin' altered to 'detention basin' in line with the approved drainage design.
- b) Levels Layout drawing number SKPL-LL-01, SKPL-SL-01 and SKPL-SL-02 d updated to show the equipped play area in lieu of the previous kick-about pitch and plots 76 and 77 which no longer form part of the proposal.
- c) Detailed drawings of all proposed retaining walls, retaining structures and associated earthworks, including elevational treatment of the walls/retaining structures.

**Reason:** In order to remove any ambiguity regarding the terms of the landscape scheme and levels layout drawings, and to ensure a satisfactory form of development which integrates sensitively with the landscape.

**Councillor Divers re-joined the meeting at this juncture.**

#### **4. Section 36 Consent**

- 19/00156/S36 Erect 29 wind turbines consisting of 18 turbines of an overall height from base to tip not exceeding 225m, 8 turbines of an overall height from base to tip not exceeding 200m and 3 turbines of an overall height from base not exceeding 149.9m. Associated infrastructure includes external transformer housing, crane pads, turbine foundations, access tracks, 2 substations, underground electricity cables and anemometry mast at Rothas III Windfarm, Moray.**

A report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) asking the Committee to consider the consultation received from the Energy Consents Unit of the Scottish Government in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) for a new windfarm. This Section of the Electricity Act relates to consenting onshore electricity generation.

Following consideration, the Committee agreed

- i) to note the contents of the report, as set out in Appendix 1, including the conclusions regarding the planning merits of the development which take into account the Moray Local Development Plan 2015 and all material considerations including the presence of existing neighbouring windfarms;
- ii) to respond to the consultation request from the Scottish Government, lodging an objection to the proposed development on the basis of the recommendations set out in Appendix 1, in particular in terms of the considered unacceptable significant landscape and visual impacts that would arise from the position and height of proposed turbines on the site (including cumulative impact), transportation issues and the impact on tourism and recreational interests; and
- iii) that in the event of approval and prior to determination, the Council request it be consulted on proposed conditions to be attached to any consent.

## **5. Representations to the Proposed Moray Local Development Plan**

Under reference to paragraph 5 of the Minute of the Special Meeting of this Committee dated 18 December 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) summarised the representations received in response to the publication of the Moray Local Development Plan (MLDP) 2020 – Proposed Plan and set out the Council’s proposed responses. The report recommended that the Council proceed to submit the Plan and the unresolved representations to the Scottish Government and request an Examination.

Mr Templeton, Principal Planning Officer outlined the Council’s current position in terms of the process to agree the proposed MLDP 2020 and the required next steps. He also drew the Committee’s attention to 2 typos on page 207 of the Schedule 4 document found at Appendix 1 of the report in relation to the Moray Forestry and Woodland Strategy where the word “commercial” should be removed and, in relation to the Tree Retention and Survey, the word “mature” should be removed when referring to trees. This was noted.

Mr Templeton acknowledged the input from a number of Services within the Council to produce the proposed MLDP 2020 and took the opportunity to thank the various Services involved.

Mrs Gordon, Planning Officer explained the contents of the Report of Conformity which demonstrated how the Council has conformed to its current Participation Statement by means of community engagement at the various stages of the plan.

During discussion surrounding Issue 11 “Buckie Housing Market Area”, ENV6 Mill of Buckie, Councillor Cowie noted the representation objecting to the proposal to change the designation of the land at Mill of Buckie to ENV and the suggestion that

part of the site should be developed for low density housing and to allow the remainder of the site to be used for a community woodland. Councillor Cowie raised concern that Council was not opposing this proposal as, in his opinion, the land was not suitable for development.

In response, Mr Templeton, Principal Planning Officer advised that the site at Mill of Buckie was an overgrown site with surface water flooding issues which was “white land” in the current MLDP 2015 and that it had been considered for development in the past however there had been difficulty in contacting the land owner. He further advised that during the neighbour notification process the landowner had been contacted and a subsequent planning application had been received which was currently live. As a result it is proposed that part of the land remain as white land to be determined against current MLDP policies and the remainder designated as ENV which would create a higher quality, multibenefit green space. This would support the Council’s policy on healthy living, biodiversity and climate change whilst meeting the Council’s climate change obligations by additional tree planting.

Having considered Mr Templeton’s response, Councillor Cowie remained of the view that the land was not suitable for development and moved that the Council retain the proposed ENV designation on the whole site at Mill of Buckie with no modifications. This was seconded by Councillor Feaver.

The Legal Adviser advised that, as the Planning Officers had provided reasons as to why they proposed the site at Mill of Buckie be changed from ENV to part white land and part ENV, Councillor Cowie should demonstrate why he is of the view that the site should remain entirely ENV.

In response, Councillor Cowie stated that, in his opinion, access to the site was insufficient as the road was narrow with no suitable area for a turning point and that developing this site would be detrimental to the wildlife already present. He also stated that, in his opinion, there was no need for further housing development as there were already designated sites for 500 houses nearby.

Councillor Feaver, in support of Councillor Cowie’s motion, raised concern that Planning Officers, having originally designated the site as completely ENV were now minded to change the designation to part white land, part ENV as, in her opinion and in accordance with the Council’s Open Space Strategy, the land should stay as a complete ENV designation. Councillor Cowie agreed to include Councillor Feaver’s reasons as support for his motion.

In response, Mr Templeton, Principal Planning Officer advised that since the Open Space Strategy had been approved in 2016, the site had not been managed and was currently not accessible however what Officers had proposed was a much better offer that would benefit the residents of Buckie.

In terms of the current live planning application that was ongoing, clarification was sought as to whether it would be considered against the current MLDP 2015 which had the site currently shown as white land or whether consideration would be given to the new MLDP 2020.

In response, the Head of Development Services advised that all planning applications were considered in accordance with the MLDP 2015 however if this report was agreed today, sites where there had been no objections would be given more weight in terms of the new MLDP 2020. However, as the site in question was

the subject of an objection, there would be very little weight given to the new MLDP 2020 until the Reporter had made a decision.

Having heard the advice given by the Head of Development Services, Councillor Cowie agreed to withdraw his motion and agree with the recommendation of the Planning Officers. Councillor Feaver agreed with Councillor Cowie's decision to withdraw his motion.

Thereafter, the Committee agreed to:

- (i) note the representations received to the Moray Local Development Plan 2020-Proposed Plan;
- (ii) approve the responses to the representations received as set out in the series of Schedule 4 documents contained in Appendix 1 subject to the following corrections:
  - Moray Forestry and Woodland Strategy – removal of the word “commercial”;
  - Tree Retention And Survey – removal of the word “mature” when referring to trees.
- (iii) approve the minor “non-notifiable” changes set out in Appendix 2 of the report;
- (iv) approve the Report of Conformity in Appendix 3 of the report;
- (v) approve the responses to representations on the Strategic Environmental Assessment as set out in Appendix 4 of the report;
- (vi) approve the responses to the Delivery Programme as set out in Appendix 5 of the report;
- (vii) delegate authority to the Head of Development Services to make any changes to the Schedule 4's arising from any decisions of the Committee;
- (viii) delegate authority to the Head of Development Services to make any minor correction or formatting changes to the Schedule 4's;
- (ix) approve the submission of the Plan, Schedule 4's and associated core and background documents together with the unresolved representations to the Scottish Ministers for examination; and
- (x) give greater weight to sites within the Proposed Plan which are not subject to the Examination process for development management purposes as of 1 August 2019.







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<p><b>GUIDANCE NOTE PRODUCED FOR PLANNING &amp; REGULATORY SERVICES COMMITTEE</b></p> <p><b>MEETING OF 20 AUGUST 2019</b></p> <p><b>REPORT ON APPLICATION</b></p>
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***“Note for guidance of the Committee where the decision of the Planning and Regulatory Services Committee is contrary to the recommendations of the Director of Environmental Services in respect to a Planning Application.”***

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

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

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

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

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

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

*Censure of a Councillor or an Officer*

*Suspension of a Councillor for up to one year*

*Disqualification of a Councillor for up to five years*

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

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

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



WARD 01\_17

**19/00211/APP**  
**28th March 2019**

**Change of use of farm sheds to whisky cask warehouses  
 and general storage sheds at Viewfield Farm  
 Craigellachie Aberlour Moray  
 for Forsyths Ltd**

**Comments:**

- A SITE VISIT has been carried out.
- The application is for a site with an area of 2 or more hectares.
- Advertised for neighbour notification purposes – notification not possible because no premises are situated on land to which notification can be sent.
- No representations have been received.

**Procedure:**

- None

**Recommendation**

- **Grant Planning Permission - Subject To The Following conditions:**

**Conditions/Reasons**

1. For the avoidance of doubt, this consent relates to buildings 1, 2 and 3 only per drawing number P01 A hereby approved. All other buildings within the site do not form part of this consent and shall not be used for storage without the prior approval of the Council, as Planning Authority.

**Reason** – To ensure the buildings within the site are operated in line with the details that were assessed as part of this application.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting that order) the approval hereby granted only relates to the use of the premises as Whisky Cask Storage; and for no other use or purpose without the prior approval of the Council, as Planning Authority.

**Reason** - In order to retain Local Authority control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any order revoking and re-enacting that order) no development specified in Article 3, Schedule 1, Part 3, Class 13; shall be carried out without the approval of the Council as Planning Authority.

**Reason** - In order to retain control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

4. Unless otherwise agreed in writing with the Planning Authority, in consultation with the Environmental Health Manager, deliveries and activities associated with the proposed storage use (as outlined in the Revised Noise Impact Assessment, dated 26 June 2019) shall only be permitted between the hours of 0800 - 1630 Monday to Thursday and 0800 - 1230 on a Friday.

**Reason** – In order that activity associated with the use is undertaken during reasonable working hours, in the interests of the amenity of the surrounding area.

5. The rating level of noise associated with the use hereby granted shall not exceed the background sound level by more than 5 dB(A) at the nearest noise sensitive dwelling.

Any measurement and assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

**Reason** – In order that any noise emissions from the activity hereby granted shall be in within acceptable levels.

6. No development shall commence until a detailed drawing (scale 1:500 at A3) showing the location and design of three passing places on the U58H between the A95 and the site entrance (to the Moray Council's standards and specifications), has been submitted to and approved in writing by the council, as Planning Authority in consultation with the Roads Authority; and thereafter the passing places shall be constructed in accordance with the approved drawing prior to the use/any development commencing (except for those works associated with the provision of the passing places).

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

7. No development shall commence until a detailed drawing (scale 1:500 at A3) showing proposals to strengthen/reinforce the edge of the public road U58H where it meets the unadopted vehicle overrun area, has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority, and thereafter the works shall be constructed in accordance with the approved drawing prior to the use commencing.

**Reason** – To ensure acceptable infrastructure at the development access

**Reason(s) for Decision**

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

The change of use of the buildings is considered suitable and would not have an adverse impact on the surrounding area. Subject to upgrades to the vehicular access to the site from the A95 trunk road, sufficient infrastructure can be provided to serve the development. The proposal therefore complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

**List of Informatives:**

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

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

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. (Passing Places and edge strengthening). 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 at [http://www.moray.gov.uk/moray\\_standard/page\\_65638.html](http://www.moray.gov.uk/moray_standard/page_65638.html)

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

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

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

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

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

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

TRANSPORT SCOTLAND has commented that:-

To obtain permission to work within the trunk road boundary, contact the Area Manager through the general contact number below. The Operating Company has responsibility for co-ordination and supervision of works and after permission has been granted it is the developer's contractor's responsibility to liaise with the Operating Company during the construction period to ensure all necessary permissions are obtained.

**Area Manager**

Area Manager (A95)  
Buchanan House  
58 Port Dundas Road  
Glasgow  
G4 0HF

0141 272 7100

**Operating Company**

NORTH EAST  
Bear House  
Inveralmond Roundabout  
Inveralmond Industrial Estate  
Perth  
PH1 3TW

01738 448600

[NEplanningapplications@bearsotland.co.uk](mailto:NEplanningapplications@bearsotland.co.uk)

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan

P01     A	Site and location plan
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Information to accompany decision: Revised Noise Impact Assessment, dated 26 June 2019.







## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00211/APP**

**Site Address:**

Viewfield Farm  
Craigellachie

**Applicant Name:**

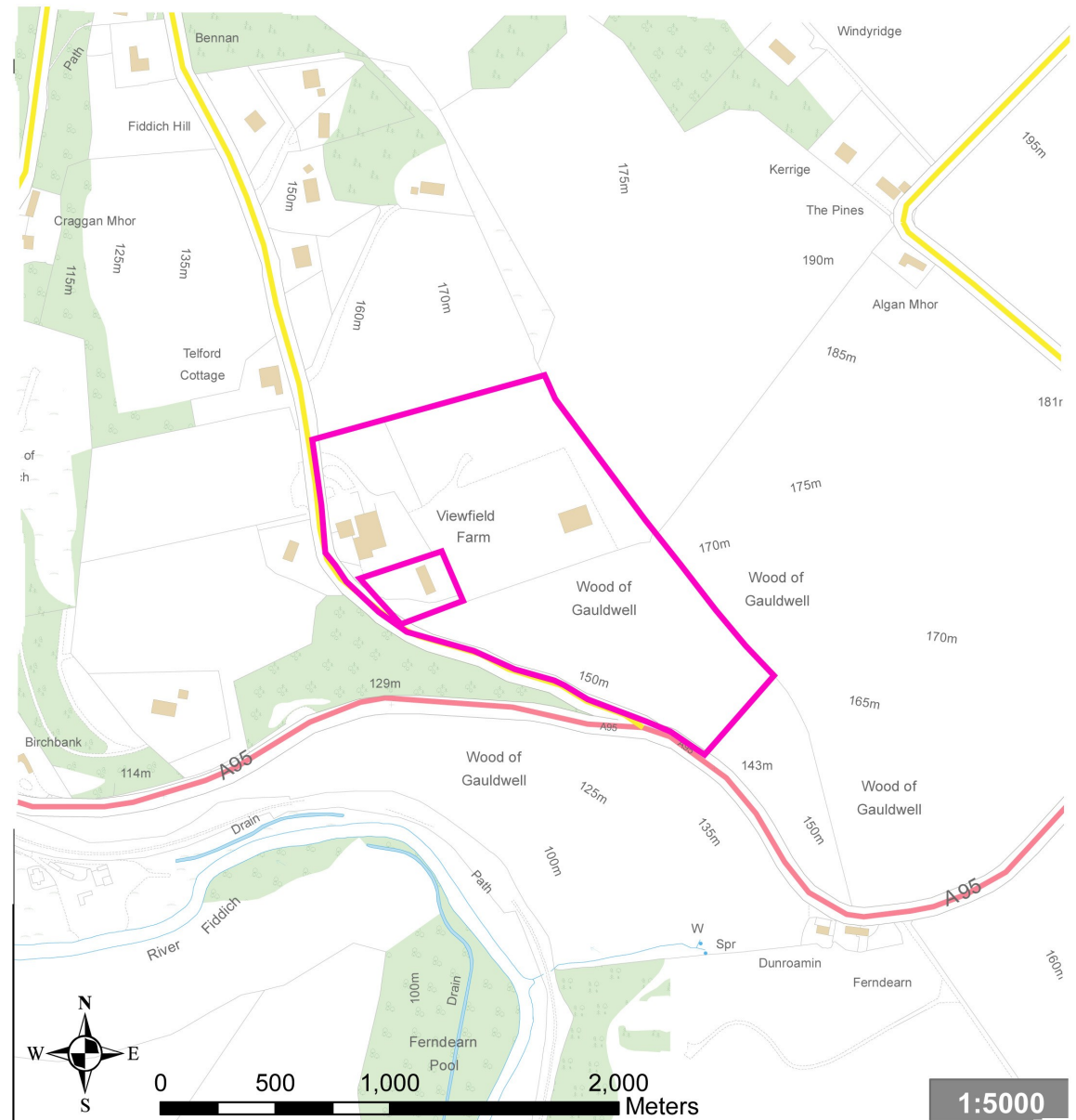
Forsyths Ltd

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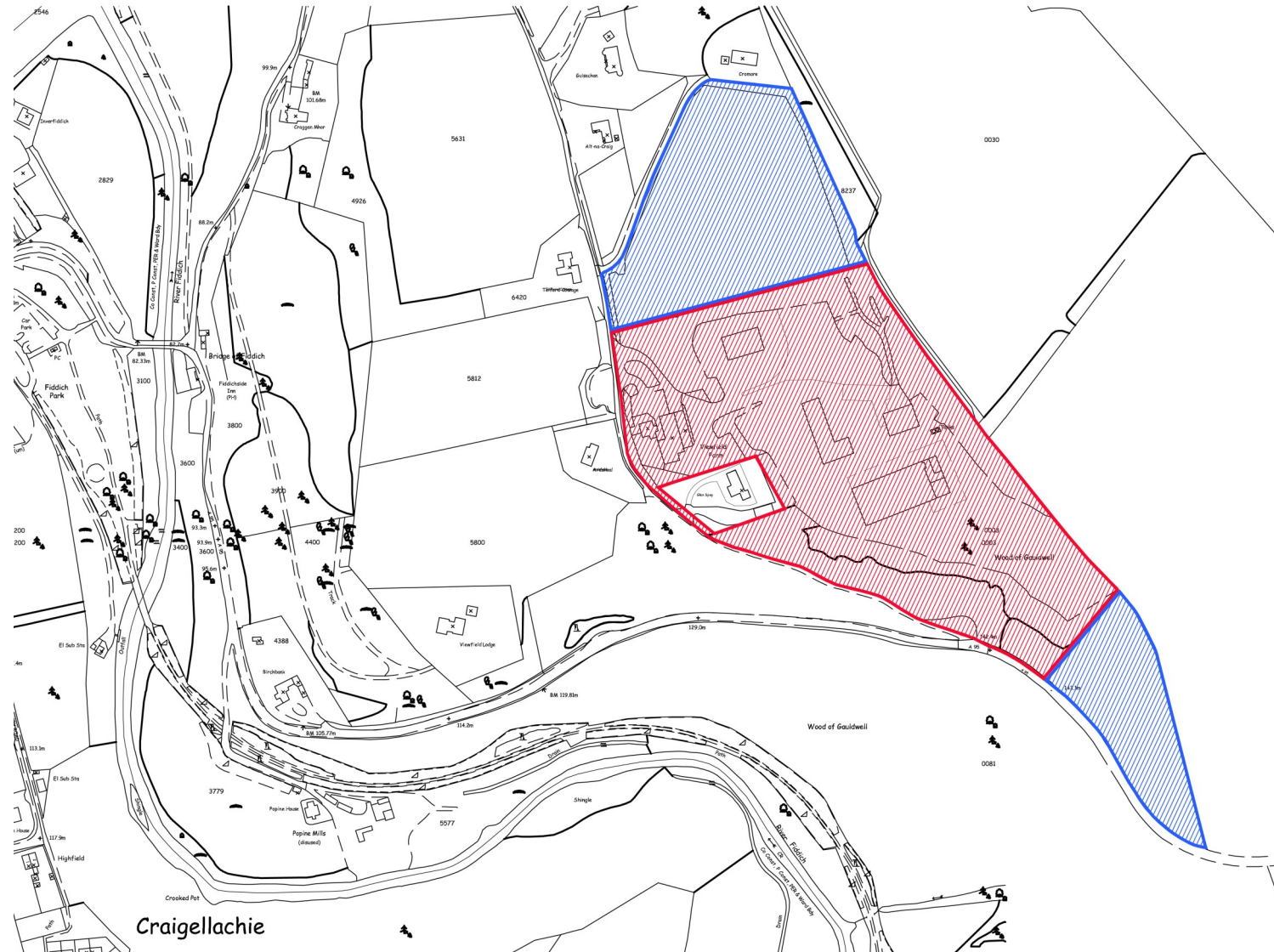
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## Location Plan





## Site Location





Site layout plan



Block Layout Plan Scale 1:1250





## Building 1







**Building 2**







## Building 3





## PLANNING APPLICATION: 19/00211/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*

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### **THE PROPOSAL**

- Change of use of three agricultural buildings as secure storage for whisky casks or for general storage (Use Class 6).
- All buildings on site are to remain unaltered, this application relates purely to the use of three buildings (numbered 1, 2 and 3 on the site plan submitted with the application).
- Existing access and parking arrangements will be utilised.

### **THE SITE**

- A group of agricultural buildings, with associated hardstanding and planting to the west of Craigellachie.
- The site covers an area of 6.6 ha, surrounded by agricultural land with dispersed housing.
- Dwelling of Glen Spey sits within the red line site as submitted (but is excluded from the site area).
- Mature trees bound the site to the south.

### **HISTORY**

**12/00873/APP** – Erection of grain store and general purpose shed granted permission under delegated powers on 13 July 2012. (Building 3 on the submitted plans.)

**10/00376/APP** – Erect agricultural building granted permission under delegated powers on 15 April 2010. (Building 1 on the submitted plans.)

**09/02257/AGR** – Erection of agricultural building under prior notification accepted under delegated powers on 21 January 2010. (Building 2 on the submitted plans.)

### **POLICY - SEE APPENDIX**

### **ADVERTISEMENTS**

- Advertised for neighbour notification purposes.

### **CONSULTATIONS**

**Transport Scotland** – Following the provision of information on vehicle movements (size of vehicles and numbers), no objections.

**Transportation Manager** – Following the provision of information on vehicle movements (size of vehicles and numbers), no objections subject to conditions in relation to the provision of 2 passing places and reinforcement of the edge of the public road adjacent to the existing unadopted overrun at the junction where Viewfield Road (U58H) meets the A95 trunk road. Informative notes also provided.

**Environmental Health** – Following the provision of a Noise Impact Assessment, no objections subject to conditions limiting the operating hours of the deliveries and activities associated with the use being carried out between 0800 – 1630 Monday to Thursday and 0800 – 1230 on a Friday, and limitations of noise.

**Contaminated Land** – No objections.

**Building Standards** – Building Warrant required.

## **OBJECTIONS-REPRESENTATIONS**

None received.

## **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. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the “settled view” of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29<sup>th</sup> January 2019, with the Committee agreeing that between June/August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019. In this case the proposal is not subject to a designated site.

The main planning issues are considered below.

### **Rural Business (ED7, PP1 and IMP1)**

The site is not covered by any specific land use designation and outwith a defined settlement boundary in the MLDP. Accordingly, the proposal is considered to comprise a rural business proposal, and policy ED7: Rural Business Proposals is applicable. This contains criteria which such proposals must conform to. Policy PP1: Sustainable Economic Growth supports proposals which contribute towards the delivery of sustainable economic growth. Policy IMP1: Developer Requirements requires development to be sensitively sited, design and serviced appropriate to the amenity of the surrounding area.

There will be no physical changes to any of the buildings externally, therefore the main consideration relates to the suitability of the use of the buildings for this purpose and the implications this has on the surrounding area.

With regard to a locational justification, the use of buildings for storage of whisky casks tends to be found in rural locations, in close proximity to distilleries (e.g. bonded warehouses at Malcolmburn, north of Mulben). This site's close proximity to the A95 trunk road that runs through the Speyside area means the site is suitably placed to provide such a service. In addition, the proposal utilises existing buildings, therefore there will be no additional buildings located within the rural context of the site.

Sufficient capacity must also be available in local infrastructure or where this is insufficient, be mitigated against. As noted below under Roads Access, sufficient information has been provided to demonstrate the negligible impact the change of use will have on the local road network and conditions have been recommended in relation to access.

A Noise Impact Assessment (NIA) was provided at the request of the Council's Environmental Health Manager, in order that consideration could be given to the impact of the proposed use upon a nearby dwelling (Glen Spey). This found that the impact of the proposed use upon the amenity of neighbouring residents would be low, with noise levels at the property (inside and out) being found to be within World Health Organisation recommended levels. The proposal would not result in an unacceptable disturbance to residential amenity and conditions are recommended in relation to operating hours and noise levels, per the recommendation of the Environmental Health Manager.

Overall, the change of use is considered to be suitable for its rural location and would satisfy policies ED7, PP1 and IMP1. A condition is recommended to limit the scope of the operation to that proposed, as any alternative use within use class 6 (storage and distribution) may have a negative impact on the surrounding area and the infrastructure serving it. A further condition is also recommended to prevent the change of use of the building(s) to use classes 4 (business) and 5 (general industrial), which permitted development rights allow.

### **Location in Area of Great Landscape Value (E7)**

The site is located within the Speyside Area of Great Landscape Value (AGLV). Policy E7 seeks to prevent development that results in an adverse impact upon such designated areas. Again, as noted above, the proposal does not involve the erection of new or alterations to existing buildings, accordingly there will be no impact on the AGLV. Consequently, there is no conflict with policy E7.

### **Roads Access (T2)**

Access to the site is taken from an unclassified road (Viewfield Road), with the existing access arrangements to the site remaining unchanged. This access point is circa 400 metres from Viewfield Road's junction with the A95 trunk road (Craigellachie to Keith).

At present, the agricultural buildings have vehicle movements of 180 in and 180 out over a six month period (in relation to its use as grain storage), equating to 20 vehicles per day. The proposed use would entail 500 inbound deliveries over a 9 month period, equating to 15 vehicles per day. Once the facility is full of casks, vehicle movements would effectively cease, save for infrequent delivery movements thereon and, on a day to day basis, staff vehicles.

Both Transport Scotland and the Transportation Manager raised no objections to the proposal. The Transportation Manager has requested conditions requiring the provision of three new passing places on Viewfield Road (between the access to the site and the A95), as well as the reinforcement and strengthening of the public road where it meets the existing unadopted overrun area of the junction.

Subject to these conditions, the proposal complies with policy T2.

### **Developer Obligations (IMP3)**

In accordance with policy IMP3 and the associated Developer Obligations Supplementary Guidance, no developer obligations are sought for this change of use.

### **Conclusion**

Approval is recommended subject to conditions.

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

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

The change of use of the buildings is considered acceptable and would not have an adverse impact on the surrounding area. Subject to upgrades to the vehicular access to the site from the A95 trunk road, sufficient infrastructure can be provided to serve the development. The proposal therefore complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

**Author/Contact**

Andrew Miller

**Ext:** 01343 563274

**Officer:**

Planning Officer

**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.

#### **Policy ED7: Rural Business Proposals**

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

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

#### **Policy E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape**

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

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

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

## **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 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.

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

#### **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.

**BUSINESS & INDUSTRY**

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

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

**b) Business Parks.**

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

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

**c) Industrial Estates.**

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

**d) Existing Business Areas.**

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

**e) Other Uses.**

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

**f) Areas of Mixed Use.**

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses,

landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

**g) Rural Businesses and Farm Diversification.**

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

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

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

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

**h) Inward Investment Sites.**

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

Proposals must comply with Policy DP1 and other relevant policies.

**EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.**

**i) Special Landscape Areas (SLA's).**

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

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

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

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

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

## **ii) Landscape Character.**

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

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

## WARD 01\_17

**18/01373/APP****2nd November 2018**

**Residential development and associated infrastructure  
on Land At R4 Speyview Aberlour Moray  
for Springfield Properties PLC**

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**Comments:**

- A SITE VISIT has been carried out.
- The application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- 9 representations received from 7 parties.

**Procedure:**

- Legal agreement required prior to issue of any consent in order to incorporate developer obligations relating to healthcare provision.

**Recommendation      **Grant Planning Permission - Subject To The Following:-****

1. Completion of Legal Agreement; and
2. The following conditions:

**Conditions/Reasons**

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

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

2. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Detailed Landscaping Layout drawing number AB02\_L\_01 Rev C

and Landscape Management Plan AB02\_L\_02, and show and clarify the following:

- (a) extension of the natural stone wall to the side/south of plots 1 and 28,
- (b) clarification of the locations of the proposed beech and box hedging,
- (c) inclusion of a reference 'QR' Oak Roaster within the Planting Schedule to correspond with the 'QR' annotations on the layout drawing.
- (d) the arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken on the site, and including the planting blocks to the southeast and northeast shown outwith the site boundary on the supporting masterplan drawing (June 2019).

Thereafter, the landscaping arrangements shall be carried out in accordance with the approved scheme details. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council as Planning Authority gives written consent to any variation of this planning condition.

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

3. Prior to the commencement of development details of the affordable housing specification shall be submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site.

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

**Reason** - To ensure all off the residential units approved on site are affordable and managed accordingly.

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

**Reason** - To prevent surface water flooding during the course of the development and minimise risk to the River Spey SAC.

5. Notwithstanding the details shown in the approved landscaping plan and unless otherwise agreed in writing with the Planning Authority, the rear boundary enclosures facing onto the road of plots 1 to 8 shall comprise a 0.8m high wall finished in wet harl and a 1m high timber fence on top of the wall. This enclosure shall be retained as such throughout the lifetime of the development.

**Reason** – To break up the massing and dominance of this rear boundary enclosure on the street scene.

6. Prior to development commencing, details of the road surfacing/colouration between points A and B on the approved site plan shall be submitted to and agreed in writing with the Planning Authority. This section of road shall have a different finish/colouration to the remainder of the roads in the development. Thereafter the roads shall be finished in accordance with the agreed details.

**Reason** – To emphasise the street hierarchy and improve legibility of the development.

7. Unless otherwise agreed in writing with the planning authority, the equipped play area shall be provided in accordance with the approved plans prior to the commencement of the 20th residential unit on site. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan AB02\_L\_02 for the lifetime of the development.

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

8. All surface water drainage infrastructure within the development shall be implemented in accordance with the details contained in the approved 'Drainage Assessment' and associated drainage AB01\_ENG\_250, AB02\_ENG\_220 A and AB02\_ENG\_600 B. Unless otherwise agreed in writing with the planning authority, this drainage infrastructure will be completed prior to the first occupation of any housing unit in the development and thereafter maintained for the lifetime of the development in accordance with the approved 'Drainage Assessment'.

**Reason** - To ensure an acceptable form of development is provided in accordance with intentions stated in the submitted Drainage Assessment, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development.

9. Prior to the commencement of development (with the exception of works to form the access) the proposed ghost island priority junction with the A95 (T), as illustrated in Cameron + Ross Drawing No. A/180471-901 (Revision 5) "Proposed Ghost Island Layout" shall be constructed and agreed in writing by the Planning Authority, following consultation with Transport Scotland.

**Reason:** To ensure that the standard of access layout complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

10. Prior to the occupation or completion of any of the dwellinghouses hereby approved, whichever is the sooner, a new footway along the east side of the re-aligned A95 (T), as illustrated in Springfield Properties Drawing No. AB02-ENG-260 (Revision A) "A95 Re-Alignment", shall be constructed and agreed in writing by the Planning Authority, following consultation with Transport Scotland.

**Reason:** To ensure that facilities are provided for the pedestrians that are generated by the development and that they may access the existing footpath system without interfering with the safety and free flow of traffic on the trunk road

11. Prior to the occupation or completion of any of the dwellinghouses hereby approved, whichever is the sooner, the proposed bus stop lay-bys on both sides of the A95 (T), as illustrated in Cameron + Ross Drawing No. A/180471-905 "Proposed Bus Stop Locations", shall be constructed to the satisfaction of the Planning Authority, following consultation with Transport Scotland.

**Reason:** To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.

12. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and agreed in writing with the Planning Authority, following consultation with Transport Scotland and thereafter implemented in accordance with the agreed details.

**Reason:** To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

13. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and agreed in writing with the Planning Authority, following consultation with Transport Scotland and thereafter implemented in accordance with the agreed details.

**Reason:** To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents

14. There shall be no drainage connections to the trunk road drainage system.

**Reason:** To ensure that the efficiency of the existing trunk road drainage network is not affected.

15. Notwithstanding the details submitted on the site layout drawing (Drawing No AB02\_PL\_01 Rev G), prior to the commencement of development the following details shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:

a) Details (Plan Scale 1:500 minimum) showing the locations of all pedestrian crossing facilities throughout the development including details of all dropped kerbs and tactile paving to the Moray Council standards and specifications;



- b) Details (Plan Scale 1:500 minimum) showing extent of all roads, cycleways and footways to be adopted, including the proposed footway along the frontage of plots 1 to 8; and
- c) Details, including maintenance details, of all hedges to be planted adjacent to parking spaces which shall be planted at least 1.0 metres from the edge of the parking space to readily enable access into and out of parked vehicles at all times.

Thereafter the development shall be constructed in accordance with the approved details.

**Reasons:**

- a) To ensure acceptable development that does not create any hazard to road users in the interests of road safety through the provision of details currently lacking.
  - b) To ensure acceptable development through the provision of details currently lacking.
  - c) To ensure an acceptable development in terms of parking provision and amenity of the area.
16. Prior to the commencement of development the following shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
- a) A Construction Traffic Management Plan which includes details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 minimum) and proposals to safeguard non-motorised road users;
  - b) Details (Plan scale 1:500) which show the provision of a temporary turning area, including details of all materials to be used in the construction of the turning area, adjacent to Plots 35/36 to provide a turning facility for refuse collection vehicles and other visiting vehicles.

The approved Construction Traffic Management Plan must be complied with at all times. The works identified in b) shall be completed prior to the first occupation or completion, whichever is the sooner, of any of the houses on plots numbered 29 to 36 and shall be retained until such time that the roads connecting Plots 35/36 and Plots 13/14/15/16 are connected and available for use by visiting service vehicles.

**Reasons:**

- a) To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
  - b) To ensure acceptable infrastructure to service the development through the provision of details currently lacking.
17. Prior to the commencement of development a Travel Information Pack, which sets out opportunities for travel by foot, cycle and public transport, shall be submitted for approval by the Planning Authority in consultation with the Roads Authority. The Travel Information Pack shall include:
- a) Information on routes for pedestrians and cyclists to access local facilities.

- b) Information on the provision of bus services serving the development.
- c) Details of how to access personal Travel Planning and of incentives to travel by foot, cycle and public transport.
- d) Details of the programme for updating the Travel Information Pack as the development progress.

The approved Travel Information Pack shall thereafter be provided to each dwelling as they are completed from the date of first completion of any part of the residential development.

**Reason:** To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

18. 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 that does not create any hazard to road users in the interests of road safety.

19. The width of the individual vehicular access shall be 3.0m – 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway shall be to The Moray Council specification and surfaced with bituminous macadam.

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

20. Parking Provision shall be provided and maintained for use in accordance with the approved site layout plan (Drawing No AB02\_PL\_01 Rev G) unless otherwise agreed in writing with Moray Council Transportation.

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

21. Houses requiring 2 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 provided. No part of the driveway shall be included in the public road.

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

22. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. This should comprise an archaeological trial trenching evaluation of 7-10% of the total proposed development site, to be undertaken by a suitably qualified archaeological contractor, the results of which will be used to inform whether further mitigation is required. The WSI shall include details of how the recording

and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

23. No development shall commence until details of protection measures of existing private water supplies leading through the site (both during construction and for the lifetime of the development) have been submitted to and agreed in writing with the Council as Planning Authority. Thereafter the development shall be implemented in accordance with the agreed details, unless otherwise agreed with the Planning Authority.

**Reason:** In order to safeguard the water supplies which serve the neighbouring houses.

24. Prior to development commencing, cross sections through the proposed play area shall be submitted to and agreed in writing with the planning authority. Thereafter the play area shall be provided in accordance with the agreed details.

**Reason:** To ensure the play area is provided at an acceptable gradient, to maximise the functionality of this facility.

### **Reason for Decision**

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

### **List of Informatives:**

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

This development is subject to a section 75 Agreement in regard to the arrangements for developer obligations towards addressing the impact of the development upon health care, with the proposed contribution payable in instalments.

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

assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

To address concerns regarding the topography of the site, development along the northern boundary will require further detailed analysis through a subsequent planning application(s) to determine whether the extent of development indicated on the masterplan and slope analysis is appropriate and the level of woodland planting necessary to sensitively integrate the development into the landscape.

THE ENVIRONMENTAL HEALTH MANAGER has commented that:

I would advise that there has been a history of failures from the private water supply that leads through the site and that it has dried up in drought conditions. We would therefore strongly recommend that the existing properties which bound the development site using this supply are connected to the mains supply, and note that the developer has confirmed that it is happy to facilitate this.

SCOTTISH NATURAL HERITAGE has commented that:-

Any works should not result in unattended excavations that badger or other mammals could fall into and become trapped. Excavations should be covered when unattended or formed with a sloping edge to allow any animals to escape.

Lighting used during development works should be fitted with shades to prevent light spillage outside the working area. Lighting during and post development should not illuminate woodland and scrub habitat as lighting can affect commuting and foraging success for crepuscular and nocturnal species.

ABERDEENSHIRE ARCHAEOLOGICAL SERVICE has commented that:-

#### Post-Excavation Research Design (PERD)

A written specification for the post-excavation analysis of artefacts and samples recovery during the excavation phase or archaeological works, prepared by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant. This should include a project design for the post-excavation work, a costed assessment for this work, and costed proposals for the publication of results. The PERD must be submitted to the planning authority for approval. Once the PERD has been agreed, written confirmation must be provided to the planning authority demonstrating that an agreement is in place between the applicant and the appointed CIfA member archaeological contractor, committing the applicant to fund the post-excavation work and for said work to be completed by an agreed date.

#### Securing post excavation research design

When any post excavation research design is required through the implementation of a programme of archaeological works, the analysis, publication and dissemination of results and archive deposition requires to be agreed and secured between the developer of the site and the archaeological contractor undertaking

the archaeological works on the site before it will be agreed in writing by the planning authority.

TRANSPORT SCOTLAND has commented that:-

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary. Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

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

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

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

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

The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin – Tel (01343) 557300, Ext 7327 to discuss the proposals with respect to the specifications and design of street lighting provision.

<b>LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT</b>	
<b>Reference No. Version No.</b>	<b>Title/Description</b>
AB1_LP_01	Location plan
T-01	Topographical survey 1 of 3
T-02	Topographical survey 2 of 3
T-03	Topographical survey 3 of 3
1339DT(-- )901 F	Braemar type detached house - elevations and floor plans
932TE(AS)901	Dallachy type semi-detached house - elevations and floor plans
9505D(AS)901 D	Ardmore type - elevations and floor plans
	Movement diagram
	Phasing plan
MC/2018/CS/01	CS type affordable semi-detached house - elevations and floor plans
A/180471-901 5	Proposed ghost island layout
A/180471-905	Proposed bus stop locations
AB02_ENG_210	Swept path analysis

AB02-ENG02-200	Internal visibilities
AB01_ENG_250	Drainage layout
AB02_ENG_220      A	Overland flow routes
AB2_ENG_600 B	Drainage layout
AB02-ENG-260 A	A95 re-alignment
	Masterplan
AB02-ENG-505	Road long section
AB02_PL_06    A	Roads hierarchy
AB02_L-02	Landscape Management Plan
	Play park equipment details
2016 BB_901    A	BB- elevations and floor plans
AB02_L_01      C	Detailed landscaping
AB02_PL_01    G	Site layout
AB02_PL_04    B	Material conditions
AB02_PL_06    A	Roads hierarchy
	Short sections
01	Play equipment layout

AB02-ENG-300 D	Levels layout
MC/2017/F/01 A	F type semi-detached house - elevations and floor plans
	Slope analysis
2016/EB/PL/01 A	E type/B type affordable semi combination - elevations and floor plans
AB02-DTYPE_PL_01 A	D type affordable semi-detached house - elevations and floor plans
AB02_MC_01 A	Material conditions
AB02_PL_05 B	Materials and character areas
MC/2018/A/01 A	Cottage flat A type - elevations and floor plans

Supporting information accompanying the decision:

Drainage Assessment  
Air Source Heat Pump Details





## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**18/01373/APP**

**Site Address:**

Land At R4 Speyview  
Aberlour

**Applicant Name:**

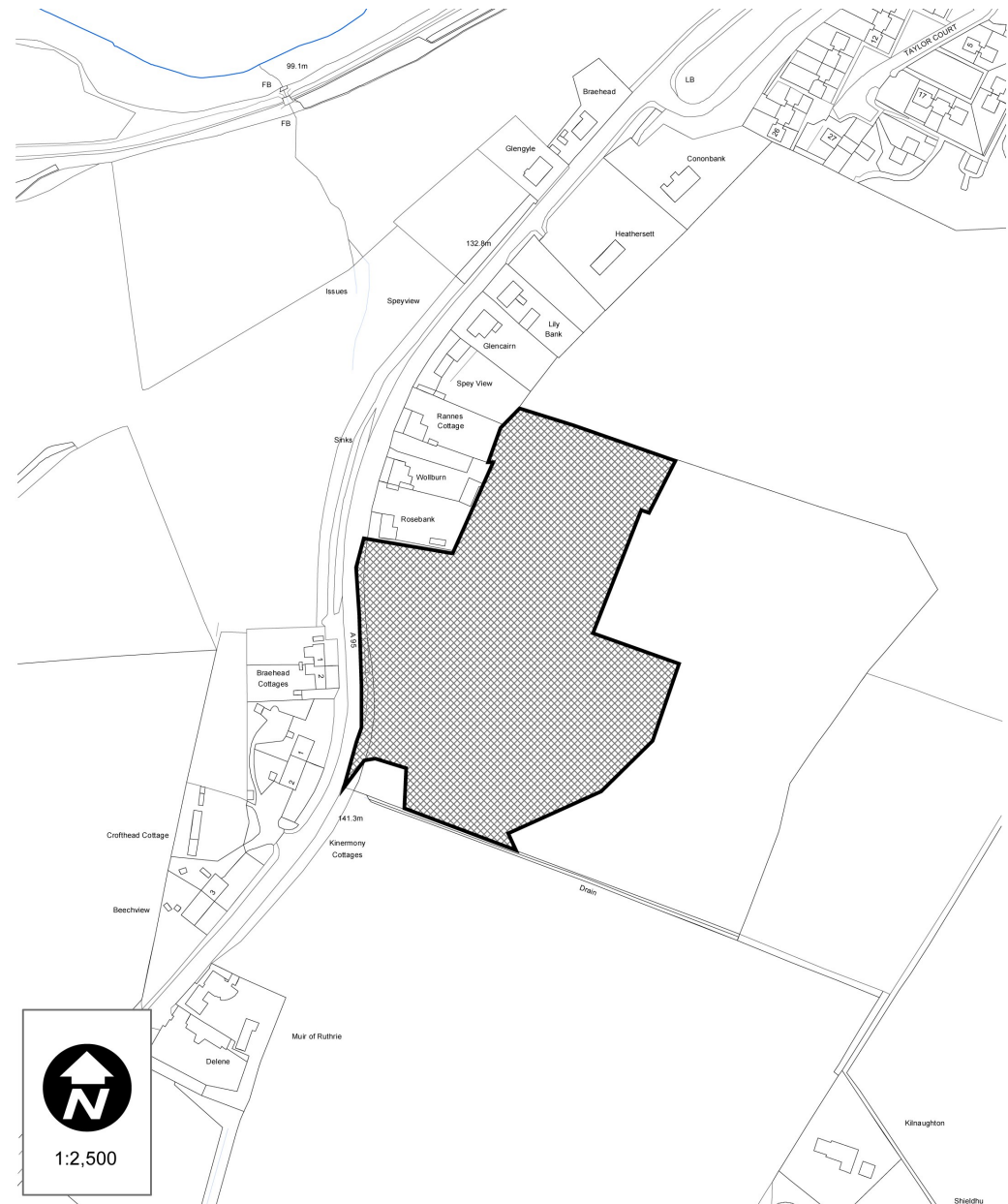
Springfield Properties PLC

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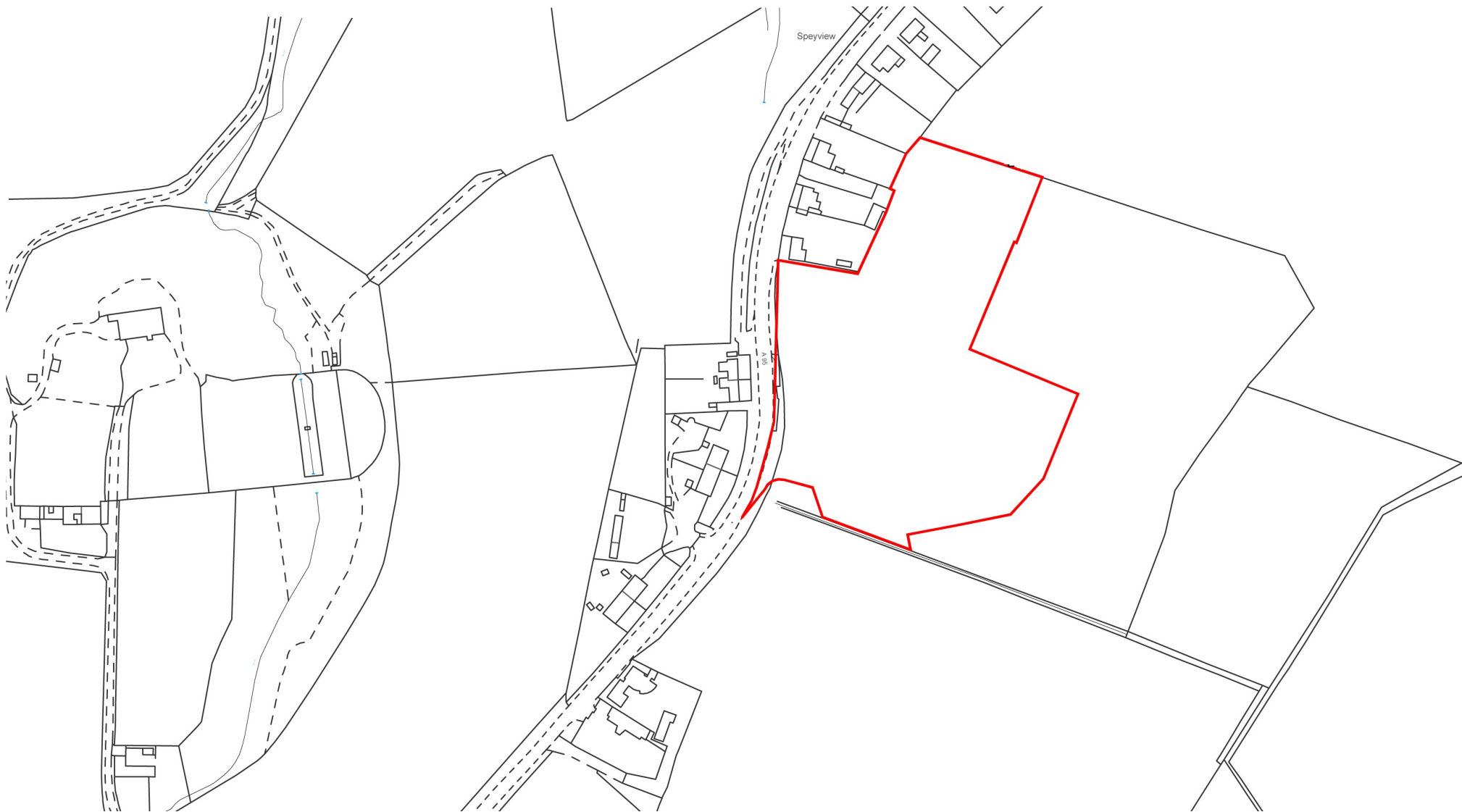
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## Location Plan





**Site Location**





Site layout

























## PLANNING APPLICATION: 18/01373/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*

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### **THE PROPOSAL**

- This application seeks planning permission for the erection of 39 houses/units on the north west portion of the R4, Speyview designation in Aberlour.
- 30 of the houses/units proposed are affordable with the remaining 9 being private.
- This application only covers around quarter of the overall R4 designation, however, an indicative masterplan has been submitted which indicates how the remainder of the designation is likely to be developed in the future. This would result in around 120 housing units across the whole designation, with a significant proportion of the site set aside for tree planting and open space.
- The proposed 39 units are broken down into 8, 1-bed flats, 4, 2-bed semi-detached houses, 6, 2-bed semi-detached bungalows, 18, 3-bed semi-detached houses and 3, 4-bed semi-detached houses. The 9 distinct house types have a pitched roof form and are to be finished in smooth grey concrete roof tiles and a mixture of wet harl render and painted timber cladding on the walls. The houses fronting onto the A95 have a natural slate roof.
- The houses will be connected to the public water supply and public foul sewerage system. Surface water from the development will be disposed of via swales and infiltration basins located throughout the site, which will attenuate flows and eventually discharge into a drainage ditch at the opposite side of the A95.
- The development has been designed around the contours of the site, with the flatter areas being developed and the steeper sloping areas being planted with woodland or being left open.
- The suds and play area features have been located together within the southern part of the current site, which allows space for their expansion in further phases of the development. The equipped play area will be provided as part of this first phase of the development.
- There is a central tree lined road/cycleway running north south through this site and then leading on throughout the remainder of the R4 designation. This access and cycle way is taken to the northern boundary of the site to allow for a cycleway/road link to be formed across the neighbouring land in the future.
- As part of the proposals the A95 will be realigned and pushed westwards, to allow for a footway to be formed in front of the existing houses which lie to the northwest of the site. Two bus stops will be provided on the A95, with the southbound bus stop being directly adjacent to the site and the northbound stop in front of the existing houses which bound the site to the northwest.
- The Landscaping scheme comprises a mix of heavy standard trees, multi-stemmed/feathered trees, beech hedges, shrub beds/borders and planted swales. Identified tree species are Beech, Scots Pine, Copper Beach, Crab Apple, Cherry, Rowan, Lime, Birch, Maple, Hawthorn and Hornbeam.
- The following supporting documents have also been provided; Design and Access

Statement, Planning Statement which incorporates the Sustainability Statement, Transport Statement, Road Safety Audit, Badger Survey, Archaeological Evaluation Written Scheme of Investigation, Flood Risk Assessment, and Drainage Assessment.

## **THE SITE**

- The site is approx. 1.94 hectares in area and comprises the northwest portion of the R4 Speyview, Aberlour designation, which lies on the southern edge of Aberlour and is identified as having an indicative capacity of 100 units within the Moray Local Development Plan 2015.
- The proposed site is relatively flat, however, outwith the site boundary within the remainder of the designation the land rises relatively steeply in sections to the northeast, east and southeast and much of the designation is bounded by mature woodland to the east.
- The site is bounded to the west by the A95 and existing houses, to the north by further agricultural land and to the south and east by the remainder of the designation.
- The River Spey SAC and SSSI are located approximately 180m to the northwest of the site.
- The SEPA indicative flood map shows that the site is identified as being at 'little or no risk' from river flooding. The SEPA flood map also indicates that the majority of the site is at low risk from surface water flooding, with small localised areas shown to be at 'medium or high risk'.

## **HISTORY**

None

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

- Advertised for neighbour notification purposes.

## **CONSULTATIONS**

**Strategic Planning & Delivery** - Policy and urban design comments provided. Amendments sought and provided to ensure fuller compliance with quality audit aims and with placemaking policy PP3 (see observations section).

**Moray Flood Risk Management** - Comments provided on surface water drainage arrangements and following further submissions, no objections subject to conditions.

**Developer Obligations** - Developer Obligations assessment carried out in relation to current Local development plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities. A Section 75 Legal agreement will be required to secure these contributions.



**Moray Access Manager** - No objections.

**Environmental Protection** - No objections.

**Aberdeenshire Council Archaeology** - No objections, subject to conditions and informatives requiring an archaeological scheme of investigation.

**Scottish Water** - No objections.

**Environmental Health** - No objections.

**Environmental Health, Private Water Supplies** – No objections, subject to condition to protect existing supplies. Advised that where possible houses on existing private water supplies should connect to the public network as there has been a shortage of water on the private supply in past years.

**Contaminated Land** - No objections.

**Transportation Manager** - No objections subject to conditions and informatives covering access, parking, construction traffic and footway/cycleway provision.

**Transport Scotland** – No objections subject to conditions and informatives covering the provision of the new access onto the A95 and new pedestrian access along the A95. Works to the trunk road will require to be subject to a separate regulatory process between the applicant and Transport Scotland.

**Housing Strategy and Development Manager** - No objections, subject to conditions regarding provision of affordable units.

**Speyside Community Council** – Objects to the development on a number of grounds, including lack of path/cycle infrastructure to Taylor Court, lack of safe waking route into Aberlour and re-aligning the A95 does not make it safe, the remote nature of the site will encourage travel by car, separation of the private and affordable housing, the tenure of the affordable housing, and surface water and foul sewerage concerns.

**Scottish Natural Heritage** - No objections. Sufficient separation and intervening landform from the River Spey SAC and SSSI to ensure no adverse impact and therefore there is no requirement for an Appropriate Assessment. Informatives recommended to protect the interests of badgers that will not be directly affected by the development but are known to be present in the area, as identified by the Badger survey submitted in the support of the application.

**Building Standards** – No objections, warrant required.

## **OBJECTIONS-REPRESENTATIONS**

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

[REDACTED]

[REDACTED]

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 weblink:

- Activity at unsociable hours/behaviour
- Affecting natural environment
- Height of proposed development
- Loss of privacy (being overlooked)
- Over-development of site
- Parking
- Noise
- Road access
- Road safety
- Smell
- Traffic
- View affected

The grounds for objection/representation are summarised as follows:

**Issue:** Impact on privacy

- The two storey flats are located too close to the existing houses and will result in an adverse impact on privacy levels.
- The proposed planting between the flats and existing houses will take a number of years to mature therefore not reducing privacy impact.

**Comment (PO):** The proposals have been amended to remove the two storey flats proposed to the rear of the existing houses and replaced with semi-detached bungalows. This when coupled with the 1.8m high rear timber screen fencing and window to window separation of 48m, will ensure the proposals do not result in an adverse privacy or overbearing impact.

**Issue:** Noise and light pollution

- Large increase in noise and light pollution as well as the increase in volume of traffic.
- Will suffer the impact of increased noise from traffic entering and exiting this access, and the noise of through traffic slowing and speeding up.

**Comment (PO):** The proposed new housing development is not considered to result in an unacceptable level of noise or light pollution. It would be unreasonable to restrict residential development within Moray on the basis of potential noise or light pollution in

future. Environmental health have been consulted in relation to the development and have no objections to the approval of the application. Should any noise nuisance occur during the construction or use of the houses the Environmental Health Manager has powers to investigate any complaints.

**Issue:** Damage to neighbouring property

- Are the developers responsible in the long term for any damage caused by excavation works or tree roots as the development ground is higher than our property?

**Comment (PO):** The potential for damage to neighbouring boundary walls has been raised with the applicants, who have confirmed that these will remain unaffected by the proposals. The issue has also been discussed with the Building Standards Section, which has confirmed that the proposed land raising under the houses which bound the existing neighbouring properties will be designed by an engineer to ensure its stability and will be addressed as part of the building warrant process. Any damage to neighbouring property as a result of future tree root growth is a private legal matter.

**Issue:** Active travel route to Taylor Court to the north of the development and footpath down the side of the A95.

- The Key Design Principles diagram in the current Local Development Plan (2015) indicates the need for remote footpath cycle links.
- The Transport Assessment seems to be promoting a route to/from the centre of the village via a double crossing of the A95 Trunk road. This does not appear to be a safe option, particularly as a route to/from school.
- Confirmation that the owners of the land to the north have not agreed for this land to be used as a sustainable travel route as part of planning application 18/01373/APP, or indeed as part of the proposed housing master plan release, which is considered as isolated from the main settlement.
- The plans show a footpath which comes out onto the A95 just beside the play area, The existing footpath on the A95 ends at Wollburn and restarts at Heathersett. Pedestrians have to cross the road, climb over the crash barrier, continue on the other side of the A95 before crossing back again to regain the pavement. We note that there is a proposal for two crossings. This is a busy stretch of trunk road and the line of sight for both pedestrians and traffic at Wollburn is extremely poor. It is our opinion that more thought and investigation needs to be done regarding this. Traffic coming north in particular will come round a blind corner right into a crossing which could cause accidents.
- We also do not agree that it is safe for young children to use the existing incomplete footpath infrastructure (walking or cycling) and we also believe that the distance from the proposed development to the village of Aberlour would be too far for anybody with mobility issues to walk. The A95 is an extremely busy road and the proposal to install two signalised pedestrian crossings is totally unacceptable both from a motorist's and a pedestrian's point of view. The proposal to install one of these crossings at Glengoyne is unworkable – heavy vehicles often struggle up the Dowans Brae and regularly become stuck in winter due to the road conditions. A pedestrian crossing situated anywhere between Aberlour Distillery and the T-junction at Kinnermony on the A95 would simply grind Aberlour to a complete standstill irrespective of weather conditions.
- Traffic survey model is questionable. The survey states that only limited traffic would

come and go without any prior knowledge of who will be living in the proposed development or how many cars per household. There is not a safe walk way into the village. Residents not only have to cross a dangerous road in multiple places but pathways are narrow and not ideal for walking with children or animals. Current transport links in the area are already tenuous. Any use of cars into the village puts pressure on an already limited amount of parking.

- The location of the proposed pedestrian crossing on a busy & fast trunk road. Heavy lorries in wintertime already struggle to keep moving, this problem will become exacerbated.

**Comment (PO):** It is accepted that the provision of an active travel route to the north of the site linking into Taylor Court would provide a secondary safer route into the centre of Aberlour from the site, however, the text accompanying the Speyview R4 designation outlines the following:

“Footways along the frontage of the site onto the A95 will be required and additional works may be required for existing footways and crossings on the A95 to provide a safer route for pedestrians and for routes to school.”

The policy does not stipulate that a separate active travel route be provided to Taylor Court. The Key Design Principles plan outlines that “Public Access Routes should aim to create safe and attractive routes”, however, it is important to acknowledge that the purpose of Key Design Principles plans is to guide development and not to stipulate policies that must be followed.

To this end the applicants have provided copies of correspondence which indicates that they have approached the land owner of the land to the north of the site, however, no agreement regarding the provision of an active travel route across this land has been reached. Separate correspondence has been received from the agent acting on behalf of the owners of the land to the north of the site confirming that they are not willing to agree an active travel route though their land at this point in time.

With the above in mind the applicant have proposed the active travel link up to the boundary of their site leading northwards and should the opportunity arise in the future to achieve this link the layout of the proposed development would not restrict this option.

In order to provide a safe pedestrian route into the centre of Aberlour from the site, the applicants have amended their original proposals for utilising existing footways down the A95 and supplementing these with formalise crossing points, and now propose to realign the A95 carriageway, pushing it westwards and provide a pavement along the eastern side of the carriageway. A road safety audit has been provided in support of the proposals and Transport Scotland has confirmed that they have no objection to the approval of the application subject to conditions as recommended. The Transportation service has also confirmed that they have no objection to the provision of a single pedestrian route down the A95.

Whilst it is recognised that a secondary active travel route to Taylor Court would be desirable, it is clear that at present there are legal ownership constraints which restrict this option and there is insufficient policy basis to insist on the link being provided, particularly given that the footpath down the eastern side of the A95 is considered to be acceptable by Transport Scotland.

It is noted that the emerging Local Development Plan designation for Speyview has been amended from the current designation to include the requirement for this active travel link to be formed, however, as the designation is subject to challenge, the emerging plan holds minimal weight in the determination of this application and it would not be reasonable to insist that the link be provided based on this emerging policy. The applicant's provision of the link up to the boundary of the site facilitates this new policy in future and as such the current proposals are considered to be acceptable in terms of footpath links to the centre of Aberlour.

**Issue:** Design

- Whilst we can see the need for housing development in Aberlour it has to be right, especially at the entrance to the village. Some of the proposed buildings appear to be of the one and a half storey construction, which would be in keeping with the existing housing, but others are two storey buildings quite out of keeping.
- The current proposed plans show buildings two storeys high, this is not in keeping with the current buildings in the area and will have adverse effects on privacy / views and welfare of current residents. This is further complicated by the elevation of the site.

**Comment (PO):** The material finish of the houses fronting onto the A95 have been amended to white wet harl on the walls and slate on the roof, which tie in well with the existing traditional houses which bound the site to the northwest and traditional houses found throughout Aberlour. In addition the two storey properties initially proposed to the rear of the existing houses, have been amended to 4 bungalows, which will ensure that the proposals do not dominate the existing properties and surrounding streetscape, and form a more gradual progression of development up the slope of the site.

The proposed variation of single storey, one and a half storey and two storey houses throughout the development will provide a good variation in streetscape, which is reflective of housing found throughout the remainder of Aberlour and is considered to be acceptable.

The use of the traditional material finishes on the most prominent houses fronting onto the A95, coupled with the low level natural stone walls delineating the front gardens of these properties and the tree planting along the frontage of the site, will result in a welcoming entrance to Aberlour, which picks up on the strong traditional character of the town and results in a development which creates a good sense of place and an overall acceptable design.

**Issue:** Concern regarding use of existing boundary walls as part of the development.

**Comment (PO):** All houses proposed adjacent to existing properties will be bounded by their own 1.8m high rear timber fences.

**Issue:** Private water supplies

- The development will be built over the top of existing private water supply routes and there is concern regarding future maintenance and disruption to the supplies.

**Comment (PO):** The applicants have confirmed that they are happy to connect any existing properties who wish to be connected to public water supply which will be brought

to the site. A condition is recommended requiring submission/approval of mitigation measures to ensure that where existing property owners wish to retain their private supply that these are protected during the construction process and for the lifetime of the development. Environmental Health has been consulted in this regard and has raised no objection to the application subject to the condition as proposed. They have also noted that private supplies in this area have suffered from a shortage of water in previous years and would encourage all existing residents on the supply to connect to the public supply.

**Issue:** Access to a bus stop

- The public transport provision is very poor. The nearest bus stop is in the village square in Aberlour, is a distance of 1.6km. Whilst this might be an acceptable walking distance for a fit adult, for a parent with a couple of young children or an elderly infirm resident it is definitely not. It is quite a long haul, especially coming back up the hill from the village.
- We also do not accept that existing bus stops in Aberlour constitute “a reasonable walking distance” for the reasons stated above. With regards to providing bus stops at the site location, this is also considered to be unsafe and would require an additional area at which the vehicle could turn round. It is also not possible for anybody other than a school child to access school transport; the Dial A Bus service must be pre-booked and cannot be accessed over “school run” times. The 36 service does not operate on a Sunday or in the evenings. We therefore disagree with the suggestion that this area is well served by public transport.

**Comment (PO):** Two bus stops will be provided on the A95, with the southbound bus stop being directly adjacent to the site and the northbound stop in front of the existing houses which bound the site to the northwest.

**Issue:** Flood Risk

- The area and road surface both along the A95 and the Glenallachie road does suffer from surface water/flooding particularly during the winter months. This situation is exacerbated following a period of snow fall and subsequent melt.
- Serious concerns about the drainage of the land and the provision of water to the new development. Whilst the report on drainage appears to be thorough it concerns me that all sampling and information was gathered during one of the hottest summers in Scotland.
- Both North and South access roads have surface water issues which for obvious reasons were not seen during the report mentioned above. The North access has water running over the road towards the Spey whilst the South access is regularly covered by surface water, which takes a number of days to drain.

**Comment (PO):** Flood risk and drainage assessments have been provided in support of this application which assess surface water movement across the whole of the designation and ensure that the SUDs features adopted for this current phase of the development cannot only serve this current development, but can be extended and supplemented to ensure that surface water for the whole designation can be managed in a sustainable manner without increasing flood risk elsewhere.

The proposed drainage scheme will intercept all rainfall falling on impermeable surfaces and store this in the suds ponds and swale proposed. The water will then be held in these storage areas and released in a managed manner via the existing culvert under the A95 in

the northwest corner of the site, which will ensure that proposed surface water run off rates will not exceed existing surface water run off rates and in turn the development does not exacerbate flood risk. Flood Risk Management has raised no objection to approval of the application.

**Issue:** Segregation of affordable housing from private housing.

**Comment (PO):** It is recognised that the affordable housing will be in separate blocks from the private housing, however, when viewing the appearance and design of the development, the affordable houses along the frontage of the A95 will be finished in a higher standard of finish (natural slate on roofs, wet harl on walls and natural stone boundary walls) than the remainder of both the affordable and private houses in the scheme. With the variety of house types throughout the scheme it will be difficult to determine which houses are affordable and which are private and to this end a good level of tenure blindness is considered to be achieved in this scheme and the proposals are considered acceptable in this regard.

**Issue:** Safety of the play park

- Strongly oppose the citing of the play area which is currently located next to the A95.
- Danger of drainage provision near a play park

**Comment (PO):** The position of the play park has been amended to a central location away from the A95 and is considered to be in a safer position. The proposed SUDs detention basin is located across the road from the play area, which provides an element of separation. Although this is designed to hold water during rainfall events, for the majority of time it would sit empty and have the appearance of a grassy depression.

**Issue:** We do not agree with the assessment that a single access onto the A95 is sufficient to service a potential development of 110 units.

**Comment (PO):** The current application is for the erection of 39 units, where a single access is sufficient to serve the proposed houses. A masterplan has been provided in support of the development which outlines that a secondary access will be provided on the southern boundary of the designation in line with the text accompanying the designation. This outlines the following,

“For any development exceeding 100 residential units, a second vehicular access to the development from the existing public road network will be required. Prior to the commencement of the 50th house or equivalent traffic impact from a combined housing and employment development an emergency access will be required at a location to be agreed (potentially onto the U103H Ruthrie Road).”

Any such future connections would need to be the subject of a formal planning application and require to be designed to meet relevant transportation standards.

**Issue:** Public foul sewerage system capacity

- Scottish Water has not confirmed that the sewer waste can handle the increased capacity. On a regular basis you can smell the water treatment plant on the high street near to Oggs Garage, I have serious concerns about the increase to this plant and the effect it will have on the residents living near it.

**Comment (PO):** Scottish Water has been consulted in relation to this development and has no objections to the application. There is a separate regulatory process managed by Scottish Water which will ensure the infrastructure is of a sufficient capacity to serve the development.

**Issue:** Road safety

- Access onto the A96 is on a dangerous corner. Traffic travelling at 40 miles per hour into and out of the village is too fast to allow safe access to the proposed area either on foot or by car.
- Southern boundary does not mention the residential properties that are affected by the build. This access road is a single track road not capable of handling plant equipment. The current infrastructure of the road would require serious upgrade to allow for the increase in traffic should the development be approved.
- The increase in the volume of traffic, especially as these days most households have 2 or more vehicles. The access is on a bend and is likely to heighten the risk of accidents which may affect our property.

**Comment (PO):** Both Transport Scotland and the Councils Transportation service have raised no objection to this application subject to conditions covering the re-alignment of the A95, provision of the footway along the eastern side of the A95 and ghost island entrance to the site.

Access onto the single track road to the south of the designation does not form part of the consideration of this application as it is not required to serve this initial phase of the development.

**Issue:** Impact on existing public services

- Unclear as to how the local schools and doctors are to handle additional pupils / residents. The primary school already uses composite classrooms due to the lack of teachers. The high school, albeit can take more pupils, is struggling to fill current vacancies for teachers to teach the children. The doctors surgery has recently increased waiting times for appointments and the proposed development would put more pressure on an already volatile system.

**Comment (PO):** A developer obligations assessment has been carried out in relation to the development and has identified that both primary and secondary education facilities within the catchment are operating below capacity, there are no requirements for transportation contributions and the sports and recreation facilities are considered to be adequate to serve the needs of the residents anticipated to be generated by this development. It has been identified that Aberlour Heath centre is working beyond design capacity and therefore contributions are being sought in this regard and in relation to the provision of an additional dental chair. The applicants have confirmed that they are agreeable to providing these contributions and they will be secured via a section 75 legal agreement.



## **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. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the “settled view” of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019. In this case the proposal is subject to a designated site which will be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below:

### **R4 Speyview (MLDP 2015 - Policies H1, IMP1 and Speyview R4)**

The site comprises roughly a quarter of the larger R4 Aberlour residential designation with an indicative capacity of 100 houses. A summary of the text accompanying the designation outlines that in addition to residential development a modest release of employment land within the site may also be acceptable.

A detailed development brief will be prepared for the site reflecting the design principles set out in the accompanying plan. This site is on the edge of Aberlour and relatively prominent, as such it will require significant structural landscape planting to provide a backdrop and containment for new development. The topography of the site should be used to integrate development sensitively.

There may be a requirement to prepare a Flood Risk Assessment relating to the open ditch that passes through the site and since surface water flooding is an issue in Aberlour and the design, layout and use of SUDS should be carefully considered to ensure that water quality in the River Spey SAC is unaffected.

A badger survey may be required. There is potential for buried archaeological remains and an archaeological evaluation of 7-10% is required.

A Transport Assessment will be required for the overall development of the site. Primary access to the site should be onto the A95 trunk road. For any development exceeding 100 residential units, a second vehicular access to the development from the existing public road network will be required.

Footways along the frontage of the site onto the A95 will be required and additional works may be required for existing footways and crossings on the A95 to provide a safer route for pedestrians and for routes to school.

In relation to the site designation text, a development brief has not been prepared for the designation, however, the Key Design Principles plan, which accompanies the designation within the development plan provides a steer in terms of the opportunities and constraints of the site.

With regard to the indicative capacity of the site being 100 units, policy H1 and the designation text outlines that capacities are indicative only and proposed capacities will be considered against the characteristics of the site and conformity with policies PP3, H8 and IMP1. With this in mind the application for 39 units along with the supporting layout plan covering the whole of the R4 designation and indicating a total in the region of around 120 units is not considered to be a departure in this regard, as outlined in the design and layout section of this report.

Although the proposed structural planting does not fully reflect the key design principles plan, it is considered to be effective in providing backdrop and containment for the proposed houses. With regard to utilising the topography of the site to integrate the development sensitively, this current application/phase of the overall R4 designation is located on the flattest area of the site, whilst the masterplan submitted in support of the development, indicates that the steepest sloping areas of the site will largely be utilised for structural planting and open space with the flatter areas used for housing, sudds and formal play areas. There are a couple of exceptions to this outwith the current site boundary where the masterplan shows housing backing onto steeply sloping land and concerns have been raised through the quality audit process that housing in these areas may not necessarily be viewed favourably within future applications unless creative design solutions can be found to overcome these issues without the use of high retaining walls or provision of housing with inadequate usable amenity space due to the sloping land.

A Flood Risk Assessment and Drainage Assessment have been provided and consider the flow of surface water through the whole designation. In terms of the potential impact on the water quality of the River Spey SAC, conditions are recommended to control and treat surface water run-off both during and after the construction of the development. Taking on board the conditions as recommended the interests of the River Spey SAC will be protected. A Badger survey has also been provided and the applicants are agreeable to a condition recommended by the regional archaeologist in relation to archaeological investigation of the site.

Access provision is shown in accordance with the requirements identified and realignment works are proposed to the A95 to accommodate a footway leading along the side of the A95 in front of the existing houses which bound the site to the northwest.

Although this application only forms a portion of the overall R4 designation, the text supporting the designation outlines that a phased approach would be likely given the large scale of the site. Where development is proposed on a portion of a larger designation

policy H1 requires that a comprehensive layout of the whole designation be provided in support of any such application and that key aspects developing the whole designation be taken into account, such as ensuring that access can be provided to the remainder of the site, flood risk and Suds designs can be easily integrated when developing the designation further and landscaping is well integrated throughout the phases of development. The required level of information has now been provided in support of this application and ensures that approval of this application would not prejudice the remainder of the designation. With this in mind the proposal is considered compliant with the R4 Speyview designation and associated policies H1 and IMP1.

### **Natural Environment (Speyview R4, E1 and E3)**

The site itself is not subject to any site-specific nature conservation designation, although there are natural heritage interests within the wider area, in this case the River Spey SAC, SPA and SSSI located approximately 180m to the northwest. Compliance with the condition as recommended to control/treat surface water run-off during and after the construction of the development will ensure that the proposal would have no adverse impacts on these areas. Scottish Natural Heritage has been consulted in this regard and has raised no concerns and advised it is unlikely that the proposal will have a significant effect on any qualifying interests of the River Spey SAC either directly or indirectly.

As the site is currently agricultural land it is of limited natural heritage interest with low bio diversity value and unlikely to offer habitat for shelter and breeding of any protected species. However, badgers are known to be in the vicinity of the site and the designation text outlines a requirement for a badger survey to be carried out. A badger survey has been submitted in support of the application and identifies that the site is used for foraging purposes; however, there are no active badger setts within 30m of the site. SNH have reviewed the survey and have recommended that an informative be attached to the decision notice regarding good working practices during the construction of the development, which will protect the interests of the badgers.

A detailed landscaping plan has been submitted in support of the application which details hedge and tree planting throughout the site along with a naturalised SUDs features, which incorporates a mixture of grasses, hostas, ferns and foxgloves all of which will contribute to enhance the overall habitat value of the site.

Informative advice shall be attached highlighting relevant legislative requirements regarding the protection of nesting birds that may be present along the site boundaries.

From the above the proposal complies with policies Speyview R4, E1 and E3.

### **Place-making: Design and Site Layout (PP3, PP2, H8, H9, E5 & IMP1)**

During consideration of the application, discussions with the applicant have sought to promote an acceptable form of development in terms of good design and place-making principles as advocated by policy PP3 and the related Supplementary Planning Guidance (SPG). As a material consideration, a Quality Audit (QA) process, covering both design and site layout issues, has been agreed to assess the conformity of residential development with Policy PP3 place-making and Urban Design SPG principles. The QA approach examines 12 criteria considered to contribute to place-making principles i.e. connections, public transport, safer environment, car parking, legibility/street hierarchy, character and identity, housing mix, access to facilities and amenities, natural features, open space, biodiversity, and landscaping.

The initial QA which was undertaken for this application identified a number of points requiring attention, however it was evident that the majority of these were as a result of a lack of information to ensure this proposal did not prejudice the development potential of the remainder of the designation and to demonstrate that the designation was being developed in a manner which respects the characteristics of the site.

A number of issues were also identified within the initial QA, including the design and finish of the houses fronting onto the A95 not reflecting the architecture found in Aberlour, the potential adverse privacy/overbearing impact of the proposed two storey flats located on raised ground to the rear of the existing neighbouring houses, issues with 1.8m high privacy fencing dominating the street scene in places, lack of road/street hierarchy in terms of width of roads and use of varying road surfacing, play park too close to the A95, safe pedestrian link to into Aberlour required, lack of access to a close bus stop, parking dominating the street scene in places, SUDs not incorporated into the open space or planted to maximise biodiversity and lack of landscaping detail.

In response to the initial QA, consultation responses and representations, the applicants have submitted a more detailed masterplan for the site, which is reinforced by a greater level of detail. These include a slope analysis, drainage assessment covering the whole designation, street hierarchy plan, creation of separate housing areas with different character types to assist in providing a sense of place and an explanation of the rationale which led to the layout proposed which takes account of constraints such as flood risk and gas pipelines running through the wider masterplan site.

In addition to this, the applicants have also addressed the specific issues raised and amended the finishes of the houses fronting onto the A95, changing these to wet harl and natural slate to tie in better with the neighbouring traditional houses and the traditional houses found in the centre of Aberlour. The two storey flats overlooking the existing neighbouring houses were changed to single storey houses, removing the overbearing/privacy impact. A central tree lined spine was created through the layout and the remainder of the designation helping to provide a stronger street hierarchy. Where proposed 1.8m high fences bound this spine, these will be broken up with wet harled base walls with timber fences on top and shrub/hedge planting in front, greening the street scene. The applicants have also agreed to continue the natural stone walling along the side of plots 1 and 28 to enhance the character and identity of the scheme and provide a welcoming access to the development. These aspects are to be conditioned. Where varying the width of the streets to improve legibility throughout the development has not been possible the applicants are agreeable to amending the road surface finish/colouration. The formal playpark has been removed from the frontage of the site adjacent to the A95 and moved to a more central position within the site, adjacent to the main SUDs basin, creating a large open green area on at the entrance to the site. The location of the park and SUDs also allows for these features to be extended in subsequent phases of the development.

In terms of safe pedestrian access to Aberlour, the applicants initially proposed to utilise the existing path network which runs along the western side of the A95, however, this would have involved providing two crossing points within relatively close proximity to one and other, and taking into account the potential increase in pedestrian movement from the site Transport Scotland did not deem this to be the safest option and instead recommended that the whole A95 carriageway be pushed westward to allow space to provide a pedestrian footway along the eastern side of the A95, removing the need for pedestrians from the development to cross the A95 twice when walking into the centre of

town. Two bus stops will be provided on the A95, with the southbound bus stop being directly adjacent to the site and the northbound stop in front of the existing houses which bound the site to the northwest. Where parking had the greatest potential to dominate the street scene in front of the proposed flats and the private dwellings, either some of the flats have been removed from the development or have changed position and their associated parking areas have been broken up by landscaping. The private units have been moved forward closer to the street and parking provided to the side which helps screen parked vehicles from view.

The SUDs features are now well integrated into the development, with an additional basin being required following discussions with the Councils Flood Risk Management Team. It is proposed that the margins of the basins be planted with grasses, hostas, ferns and foxgloves with the wider areas around the basins incorporating tree planting which will all act to enhance biodiversity of the site. Detailed landscaping plans have also been provided for the development.

In summary, the amended proposals have incorporated the majority of the mitigation improvements highlighted in the QAs, and improve upon the proposal's compliance with place-making principles. These improvements result in a development which although could go further in terms of legibility/street hierarchy and character and identity on balance the proposals are acceptable and satisfy relevant planning policy and supplementary guidance including policy PP3, H1 and IMP1.

The proposal is also considered to be compliant with Policy PP2. The submitted 'Sustainability Checklist' outlines that the residential units will be of an air tight design, with high insulation, maximisation of solar gain and use of triple glazed windows. In addition all units will be fitted with air source heat pumps and environmental health has confirmed that they have no objection to their use on noise impact grounds.

Drainage from the site will be managed in a sustainable manner, with construction methods adopted to minimise waste and use of certified timber kits from sustainable sources. Pedestrian and cycle routes have been provided and a detailed landscaping scheme provided which incorporates green and blue infrastructure and maximises opportunities for planting which will enhance biodiversity in the area.

The proposed tree lined frontage to the site onto the A95, tree lined spine through the development and central suds and play area will provide a welcoming development and ensures compliance with policy E5, in that, over 20% of the site area has been given over to open space and the wider masterplan showing over 50% open space/tree planting provision.

In light of the above considerations and subject to conditions as recommended the proposal complies with the place-making, siting, design and amenity requirements of policies PP3, PP2, H8, H9, E5 & IMP1.

#### **Affordable/Accessible Housing (H8, H9, PP3, IMP1)**

The majority of house/flats proposed are to be affordable housing and following consultation with the Housing Strategy & Development Manager, the proposed housing mix is considered to meet the needs of the area. A condition shall be attached as recommended by the Housing Strategy and Development Manager covering the delivery and management of the affordable housing to ensure compliance with policy H8.

With regard to accessible housing, all affordable houses are built to an accessible standard and as such the requirements of policy H9 are met.

**Transportation (Speyview R4, T2, T5, T6, T7, PP3, IMP1, IMP2)**

The applicants have incorporated all of the transportation requirements as set out within text accompanying the site designation. Following consultation the Transportation Section has confirmed that it has no objection to the grant of permission subject to conditions as recommended regarding access, parking and provision of a Construction Traffic Management Plan.

As the main access for the development is onto the A95 trunk road, Transport Scotland have been consulted on the proposals and have raised no objection subject to conditions relating to the provision of a ghost island junction, which will enable vehicles to access the development without impeding traffic flows on the trunk road, provision of a footway along the eastern side of the realigned trunk road prior to the occupation of any of the houses in the development, provision of bus stops on the trunk road and details of landscaping and barrier treatment adjacent to the trunk road.

Subject to compliance with these conditions, the proposals would accord with the above policies.

**Drainage, Flood Risk and Water Supply (EP4, EP5, EP7, EP10, IMP1)**

Policy EP5 requires surface water drainage to be dealt with in a sustainable manner using SUDs with a Drainage Assessment required for developments of 10 or more houses, together with consideration to be given to the impact of construction phase run-off.

The SEPA flood map indicates that the majority of the site is at low risk from surface water flooding, although small localised areas are identified as being at 'medium or high risk'.

A flood risk assessment and drainage assessment have been provided in support of this application which assess surface water movement across the whole of the designation and ensure that the SUDs features adopted for this current phase of the development can not only serve this current development, but can be extended and supplemented to ensure that surface water for the whole designation can be managed in a sustainable manner without increasing flood risk elsewhere.

In short the proposed drainage scheme will intercept all rainfall falling on impermeable surfaces and store this in the suds ponds and swale proposed. The water will then be held in these storage areas and released in a managed manner via the existing culvert under the A95 in the northwest corner of the site, which will ensure that proposed surface water run off rates will not exceed existing surface water run off rates and in turn the development does not exacerbate flood risk.

Moray Flood Risk Management (MFRM) have reviewed the flood risk assessment and drainage assessment provided and have raised no objection subject to conditions as recommended regarding the implementation of the surface water drainage scheme and measures to manage surface water discharge during the construction phase.

Policy EP10 requires a public connection for development located within settlements. Scottish Water has raised no objection to the approval of the application.

There are currently private water supplies which run through the site and serve existing neighbouring houses. The applicants have confirmed that they are happy to connect the existing houses to the public supply should they wish this. The Environmental Health Manager has confirmed that they have no objection to the application subject to a condition that ensures the protection of private water supplies during and after the construction process (where private supplies are being retained). They have also noted that private supplies in this area have suffered from a shortage of water in previous years and would encourage all existing residents on the supply to connect to the public supply. An informative has been added to this effect. However, this would be a matter for the existing residents and developer.

Subject to compliance with the recommended condition, the proposal complies with policy EP4, EP5, EP7, EP10 and IMP1.

#### **Impact Upon Cultural Heritage (Speyview R4, BE1, IMP1)**

There are no built heritage assets near the site, however, the text accompanying the designation identifies that there is potential for buried archaeological remains and an archaeological evaluation of 7-10% is required. The applicants have submitted an archaeological written scheme of investigation which identifies how the site investigation will be carried out. The Aberdeenshire Archaeological Service has no objection to the development subject to a condition which requires the investigation to be carried out and any finding logged appropriately.

Subject to compliance with the recommended condition, the proposal complies with policy Speyview R4, BE1 and IMP1.

#### **Developer Obligations (IMP3)**

A Developer Obligations assessment has been carried out in accordance with current Local Development Plan policy and associated supplementary planning guidance and has identified the need for contributions towards healthcare. The applicants have confirmed that they are agreeable to the contribution, which will need to be secured via a legal agreement prior to the grant of permission.

#### **Conclusion**

On the basis of the above and subject to the conditions recommended the proposal is acceptable.

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

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

**Author/Contact  
Officer:**

Iain T Drummond  
Planning Officer

**Ext:** 01343 563607

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





## **APPENDIX**

### **POLICY**

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

##### **R4: Speyview**

This large new site is expected to serve Aberlour well beyond the duration of the Local Development Plan period. It is being considered due to the constraints in developing the sites at Braes of Allachie. The site can accommodate a phased development of up to 100 houses. Depending on demand there may also be the opportunity for modest release of employment land.

A detailed development brief will be prepared for the site reflecting the design principles set out in the accompanying plan. This site is on the edge of Aberlour and relatively prominent, as such it will require significant structural landscape planting to provide a backdrop and containment for new development. The topography of the site should be used to integrate development sensitively. The layout of the development should optimise the extent of green areas to absorb rainwater to help address surface water run-off.

There may be a requirement to prepare a Flood Risk Assessment relating to the open ditch that passes through the site, the ditch should be incorporated into the design of the site. Surface water flooding is an issue in Aberlour and the design, layout and use of SUDS should be carefully considered to ensure that water quality in the River Spey SAC is unaffected.

A badger survey may be required. There is potential for buried archaeological remains and an archaeological evaluation of 7-10% is required.

A Transport Assessment will be required for the overall development of the site. Primary access to the site should be onto the A95 trunk road. The details of the A95 access junction will need to be agreed with Transport Scotland and The Moray Council. Speed limits on the A95 may require to be relocated. For any development exceeding 100 residential units, a second vehicular access to the development from the existing public road network will be required. Prior to the commencement of the 50th house or equivalent traffic impact from a combined housing and employment development an emergency access will be required at a location to be agreed (potentially onto the U103H Ruthrie Road).

Footways along the frontage of the site onto the A95 will be required and additional works may be required for existing footways and crossings on the A95 to provide a safer route for pedestrians and for routes to school.

##### **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 E2: Local Nature Conservation Sites and Biodiversity**

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

### **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 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.

### **EP4: Private Water Supplies**

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid

Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

### **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 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 T1: Transport Infrastructure Improvements**

The Council will promote the improvement of road, rail, air and sea routes in Moray and priority will be given to:

- a) dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised.
- b) improving the A95 (Keith to Grantown) route.
- c) Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.
- d) improving the Aberdeen to Inverness railway for passengers and freight by providing route and service enhancement.
- e) improving harbour facilities for freight and leisure including the diversification of the commercial harbour at Buckie for offshore renewables. Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.
- f) improving access to air facilities, at Aberdeen and Inverness, in particular through public transport, and the establishment of a railway station at Dalcross.
- g) improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.

Proposals that compromise the implementation of these priorities will not be acceptable.

### **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 T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks**

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

## **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 IMP2: Development Impact Assessments**

The Council will require applicants to provide impact assessments in association with planning applications in the following circumstances:

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.
- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

### **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.

## **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, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas 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.

### **EP2 BIODIVERSITY**

All development proposals must retain, protect and enhance features of biological interest and provide for their appropriate management. Developments must safeguard and connect into wildlife corridors, green/blue networks and prevent fragmentation of existing habitats.

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

Proposals for 4 or more housing units or 1000 m<sup>2</sup> or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

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

Where development results in the loss of natural habitats of ecological and amenity value, compensatory habitat creation will be required on an alternative site in Moray.

### **EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.**

#### **i) Special Landscape Areas (SLA's).**

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

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
  - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
  - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
  - iii) For nationally significant infrastructure developments identified in the National Planning Framework.
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
  - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
  - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

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

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

## **ii) Landscape Character.**

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

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

## **EP5 OPEN SPACE.**

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land 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/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

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

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

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

- Safe and welcoming.
- Good levels of natural surveillance.
- Discourage anti-social 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.

**EP7 FORESTRY, WOODLANDS AND TREES.****a) Forestry.**

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 all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

#### **b) Woodlands.**

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where woodland is removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace within Moray.

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable. Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

#### **c) Trees and Tree Preservation Orders.**

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

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, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

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

### **EP8 HISTORIC ENVIRONMENT.**

#### **a) Scheduled Monuments and National Designations.**

Where a proposed development potentially has a direct impact on a scheduled monument, the written consent of Historic Environment Scotland is required, in addition to any other necessary consents.

Development proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

#### **b) Local Designations.**

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

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for development, and
- c) Any adverse effects can be satisfactorily mitigated at the developer's expense.

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

### **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.

## **R2 Speyview 14 ha 60 units and 1 ha of employment land**

- Proposals must comply with key design principles set out in Figure 1.1.
- Masterplan required for the site including provision of 1ha of employment land to the south.
- The site will provide a gateway into the settlement. Proposals must be designed to reflect this.
- Development must reflect the woodland character of the site.
- Houses fronting onto the A95 must be 1½ storey in height, have their primary elevations facing the road with no direct access onto the A95 and be of traditional design with stone frontages, natural slate roofs and low stone walls with metal railings.
- Woodland creation along the eastern boundary must be provided to create a backdrop for housing and an attractive edge to the town.
- Landscaping on the western edge must be provided to create a buffer between the development and existing housing along the A95.
- Early phase(s) must provide a central greenspace with pocket park.

- Later phase(s) must provide a neighbourhood park or a pocket park, depending on the balance of residential and industrial use.
- Phase 1 must provide an active travel connection to Sellar Place.
- Footpath along or parallel to the extent of the site frontage onto the A95 must be provided. Once completed, the development must provide active travel connections from U103H (Ruthrie Road) on the southern boundary with the A95 frontage and Sellar Place and potential for future connectivity from the eastern site boundary.
- Flood Risk Assessment (FRA) may be required.
- Drainage Impact Assessment (DIA) required.

### **Figure 1.1 Key Design Principles R2 Speyview**

Key frontage houses must have their principle elevation facing onto the A95 and must be 1½ storeys.

Development must be located predominantly on the flat areas of the site. Development on the flanks of the hill will not be permitted. These areas must instead be landscaped to create a setting for new development.

An extensive landscaped area must be provided to separate the housing and employment land elements of the development.

1ha of employment land, compatible with residential uses at the southern end of the site must be provided.

Landscaping must provide connecting paths to encourage more active use of the space

A network of accessible footpath/cyclepath connections must be provided linking to Sellar Place and the wider countryside.

A significant area of accessible greenspace must be provided on the higher areas of the site creating a vantage point with views across the wider countryside.

A substantial band of new mature woodland planting must be provided along the eastern edge of the site to create a backdrop and containment for buildings and create an attractive edge to the town.

There are limited opportunities for development on the plateau at the top of the hill. A maximum of 10 individual house plots will be permitted here. Significant advanced woodland planting of a sufficient height and maturity to create appropriate levels of enclosure and containment must be provided. Houses in this location must meet the design requirements set out in Policy DP4 Rural Housing.

WARD 02\_17

**19/00513/APP**  
**29th May 2019**

**Erect dwellinghouses with off street parking on Plots 45  
 - 48 St John Ogilvie Way Keith Moray AB55 5LA  
 for Morlich Homes Ltd**

**Comments:**

- A SITE VISIT HAS BEEN CARRIED OUT.
- The application is reported to Committee because the application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site.
- The proposal has been advertised for neighbour notification purposes.
- No representations have been received.

**Procedure:**

- None

**Recommendation Grant Planning Permission - Subject To The Following:**

**Conditions/Reasons**

1. No development shall commence until details of the type and colouration of the stone facing on the front elevation of the dwellings has been submitted to and approved in writing by the Council as Planning Authority. Thereafter the development shall be implemented in accordance with these approved details.

**Reason:** In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

2. The 1.8m high fencing as shown on the approved site plan shall be erected prior to occupation or completion of the respective dwelling house which that fencing serves, and thereafter maintained for the lifetime of the development unless otherwise agreed in writing by the Council as Planning Authority.

**Reason:** To protect the privacy of neighbouring occupiers.

3. All drainage arrangements shall be installed in accordance with the submitted Drainage Statement: Strathisla Park, Keith as prepared by Gary Mackintosh Bsc, prior to completion or first occupation of the dwellinghouses whichever is the sooner, unless otherwise agreed in writing by the Council as Planning Authority.

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

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

5. The width of each vehicular access shall be as shown, and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam.

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

6. Drop kerbs shall be provided across the access to The Moray Council specification. A road opening permit must be obtained from the Roads Authority before carrying out this work.

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

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

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

8. Two car parking spaces shall be provided within each site prior to the occupation or completion of the dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

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

### **Reason(s) for Decision**

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and the Keith R5 Edindiach Road (West) Housing designation of the Proposed Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

### **List of Informatives:**

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

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

THE TRANSPORTATION MANAGER, has commented that:-

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

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

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

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

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

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

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.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
19-37/PL/K/01	Location plan
19-37/PL/PL45-48/01	Elevations and floor plans
19-37/PL/K/02	Site plan

Additional Information to be issued as part of the Decision Documents:

- Drainage Statement





## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00513/APP**

**Site Address:**

Plots 45 - 48 St John Ogilvie Way  
Keith

**Applicant Name:**

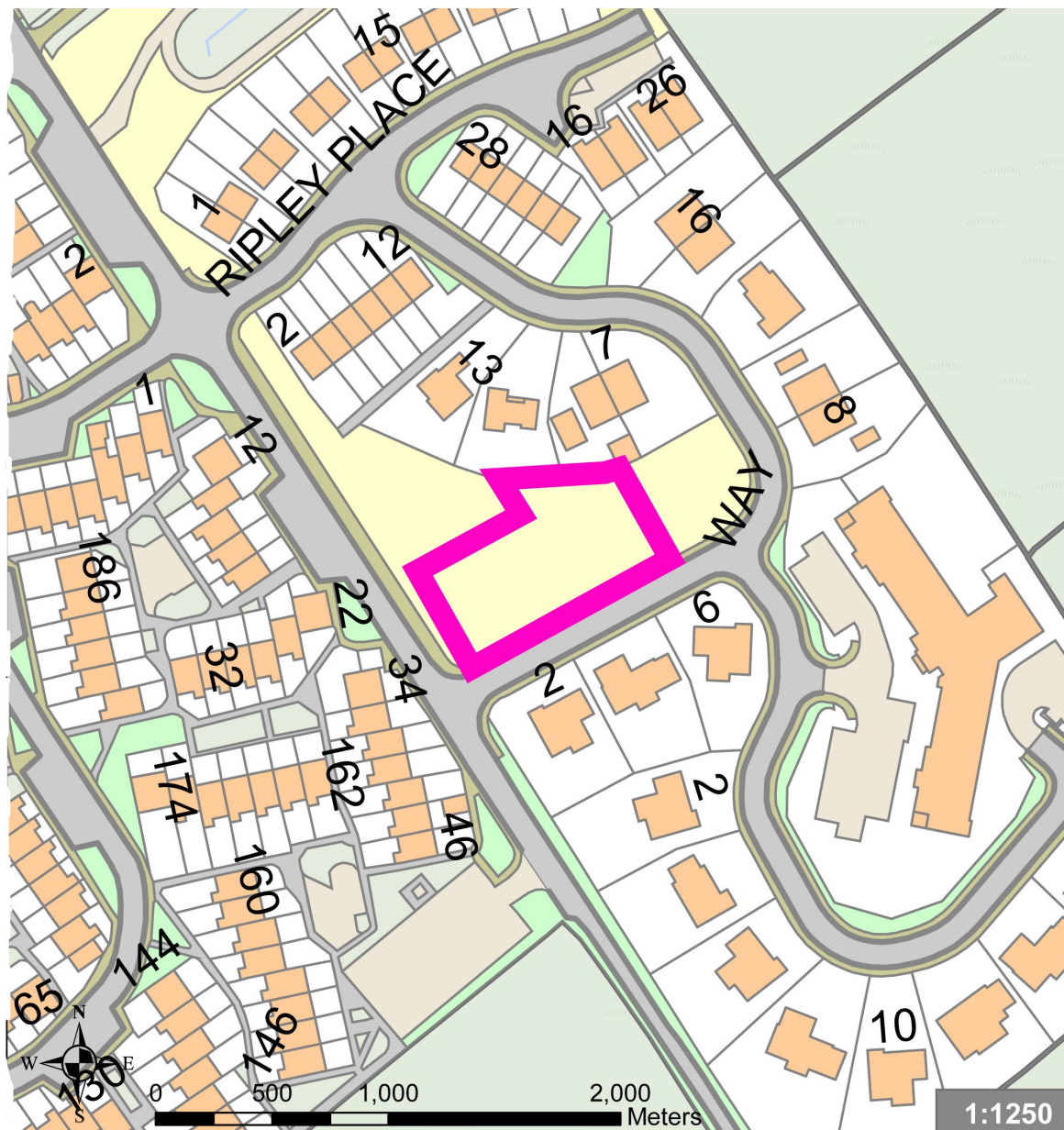
Morlich Homes Ltd

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### Location Plan







Site Location























## PLANNING APPLICATION: 19/00513/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*

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### **THE PROPOSAL**

- Application for planning permission for four, three bedroom dwellinghouses. The houses are semi-detached properties and will be located on plots 45 - 48 St John Ogilvie Way, Keith.
- Each proposed semi-detached dwelling has a single storey design with a hipped roof over.
- The proposed material finishes include a combination of brick/stone work and white harling for the walls and grey concrete roof tiles with white UPVC windows and doors.
- The plot layout arrangements include garden area, driveway and parking provision, and, boundary (timber) fencing with 1.8m fencing around the back garden areas and low level fencing onto the streetscape.
- The houses will connect to the public water supply and public foul drainage system. Surface water from the site will go to the existing SUDS detention basin which serves the wider housing development and is located to the north of the site beyond Ripley Place.
- The site is part of a residential development which was approved for residential use under application 07/01419/FUL and renewed under 13/01735/APP. The development has been the subject of change under subsequent applications, the consent issued under 13/01735/APP has been implemented and development is nearing completion across the wider site.
- The proposed houses will replace two detached houses which were previously approved under application 07/01419/FUL (and renewed under 13/01735/APP).
- The application has been supported by a Drainage Statement which confirms that there is sufficient capacity in the existing surface water drainage system to accommodate the dwellings.

### **THE SITE**

- The site is part of a residential designation, R8: Edindiach Road (East) in the Moray Local Development Plan 2015, which has an indicative housing allocation for 85 houses. The site forms part of the residential designation R5 Edindiach Road (West) in the Proposed Moray Local Development Plan 2020, which highlights that planning permission has been previously been granted for 55 houses with development commenced.
- The proposed houses are located adjacent to the junction of St John Ogilvie Way and Edindiach Road with neighbouring property located across the public road to the south. Plot 45 shares a mutual boundary with the existing neighbouring property to the east and there is an area of open space to the north.

## **HISTORY**

For the site:

**07/01419/FUL** - Erection of 55 no. dwellinghouses on Site Adjacent To Lorry Park Edindiach Road Keith Moray. Approved on 13 March 2009.

**13/01735/APP** - Extend planning consent 07/01419/FUL for erection of 55 houses on Site Adjacent to Lorry Park Edindiach Road Keith. Approved on 13 December 2013. This has been implemented and works are ongoing.

**17/00748/APP** - Change of house type from 'H1 (handed) to 'G' (with sun lounge) on Plots 44 & 45 on Site Adjacent To Lorry Park Edindiach Road Keith. Approved on 30 June 2017.

The wider development site has been the subject to alteration through other separate consents.

## **POLICY - SEE APPENDIX**

### **ADVERTISEMENTS**

Proposal advertised for neighbour notification purposes.

### **CONSULTATIONS**

**Contaminated Land** – No objection.

**Developer Obligation** – Response confirms that no Developer Obligation is sought.

**Environmental Health** – No objection.

**Moray Flood Risk Management** – No objection.

**Scottish Water** – No objection.

**Transportation** – No objection, subject to conditions and informatives.

### **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. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the “settled view” of the Council

and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019. In this case the proposal is subject to a designated site which will not be subject to the Examination process and therefore will be given greater weight.

The main issues are considered below.

### **Background**

As confirmed by the applicant, the application for the change in house type to four, three bedroom dwellinghouses in a semi-detached configuration has been submitted to meet current market demand in the area.

### **Keith: R8 Edindiach Road (East) Designation (MLDP 2015 R8 and policy H1) and R5 Edindiach Road (West) Proposed MLDP 2020**

The Keith R8 Edindiach Road East Designation has an indicative capacity of 85 houses. This application seeks to replace two of the original detached house plots approved under 07/01419/FUL (and renewed under 13/01735/APP) with two semi-detached properties. This proposed small increase in numbers is at a scale and density which is appropriate to the site and ensures that the overall numbers on the site remains less than the indicative capacity of the designation of 85 houses. In these terms the proposal accords with the terms of Policy H1 or the R8 designation. The proposal is also considered acceptable under the R5 designation in the Moray Local Development Plan 2020.

### **Layout, Siting and Design (PP1, PP3, H1, R8 (and R5) and IMP1)**

The proposed dwellings with associated gardens, parking and boundary treatment represents an appropriate form of development for this location which is compatible with the surrounding housing development at this location. The dwellings will have their frontages onto St John Ogilvie Way with their driveways located to the side of the houses (with the exception of Plot 48 in order to avoid conflict with the access junction), this combined with the low fencing to the front of the properties will help to create a positive frontage for the dwelling houses onto the streetscene.

The proposed single storey semi-detached dwellings are acceptable in terms of their design, proportions and material finishes and will relate satisfactorily to their surroundings as part of this existing housing development.

In terms of the relationship between the proposed houses and surrounding properties, no adverse impacts upon amenity i.e. loss of privacy or light is considered to occur.

On this basis, the proposals comply with the requirements of policies PP1, PP3, H1, R8 (and R5) and IMP1.

#### **Water and Drainage (EP5 and EP10)**

The houses will connect to the public water supply and public foul drainage system. Scottish Water has raised no objection to the proposal and it is noted that any connection required will be subject to liaison between the applicant and Scottish Water.

The application has been supported by a Drainage Statement which confirms that there is sufficient capacity in the existing SUDS detention basin which serves the wider housing development and is located to the north of the site beyond Ripley Place to accommodate the development. Following consultation Moray Flood Risk Management has raised no objection to the proposal. The detailed drainage arrangements will also be assessed as part of the Building Regulations. The proposal meets the requirements of Policies EP5 and EP10.

#### **Access and Parking (T2 and T5)**

The Transportation Service has raised no objection to the proposal subject to conditions requiring the provision of on-site parking, provision of dropped kerbs, and height requirements for boundary treatment onto the public road. Subject to the development being implemented in accordance with these requirements, the proposal is acceptable and would comply with the requirements of Policies T2 and T5.

#### **Developer Obligations (IMP3)**

The proposal has been assessed by the Developer Obligations Section. This has confirmed that, because the planning application forms part of a larger development and the change in house type will result in a net increase of less than 1 Standard Residential Unit Equivalent (SRUE), it falls into one of the categories of development exempt from developer obligations as defined in the Developer Obligations Supplementary Guidance. As such no obligations are required and the proposal accords with the terms of Policy IMP3.

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

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and the Keith R5 Edindiach Road (West) Housing designation of the Proposed Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

**Author/Contact**

Shona Strachan

**Ext:** 01343 563303

**Officer:**

Planning Officer

**Beverly Smith**

**Development Management & Building Standards Manager**

## **APPENDIX**

### **POLICY**

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

##### **R8: Edindiach Road (East)**

This represents the first phase of a land release which will have the effect of incorporating the Den housing estate into the body of the town. Planning consent has previously been granted for 55 houses. The balance of land here is designated LONG as a future growth area.

Road access should be via Edindiach Road, around the mid-point of the site, and a secondary or emergency point of access will be required. A Transport Assessment will be needed. Road widening; footway provision and street lighting will be required in Edindiach Road.

The "Green Roadie" to the north of the site would benefit from some feature tree planting within the road verge along this boundary, and this along with similar planting on the NE site boundary, will be a requirement of the site's development.

A noise impact assessment must be carried out to confirm whether houses nearest the car body repair works will be affected.

##### **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.

##### **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 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 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 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.

### **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 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.

### **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.

### **R5 Edindiach Road (West) 5.35 ha 55 units**

- Planning consent has previously been granted for 55 houses with development commenced.



## WARD 08\_17

**19/00320/PPP**  
**22nd March 2019**

**Erect 38 dwellingshouses and 3 craft/commercial units and a community facility on Land To The North And West Of East And West Whins Findhorn Moray for Duneland Limited**

**Comments:**

- A SITE VISIT has been carried out.
- Application is a major development as defined under the hierarchy regulations 2008 as the application site exceeds 2ha
- Advertised for neighbour notification purposes
- 66 representations received

**Procedure:**

- Completion of a (Section 75) legal agreement required prior to issue of any consent regarding developer contributions.

**Recommendation Grant Planning Permission - Subject To The Following:**

**Conditions/Reasons**

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and green infrastructure of the site shall be obtained from the Council, as Planning Authority.

**Reason** - In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 3-8 below.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

3. The proposed comprehensive layout of the whole site shall be submitted in

accordance with condition no. 2; above. The layout plan shall show details of the following:

- a) the exact position of the site boundaries and individual plots;
- b) the means of access;
- c) details of pedestrian access to and through the site;
- d) areas for vehicle and cycle parking;
- e) communal landscaping and green infrastructure including a timescale for the works and a schedule of maintenance which shall be in accordance with the approved Masterplan and NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019;
- f) Proposals for at least 15% open space;
- g) all proposed earthworks and slope stabilisation measures and
- h) the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent). For the avoidance of doubt all surface water proposals shall be in accordance with the Surface Water Management Plan dated March 2019 and North Whins, Findhorn SuDS Operation & Maintenance Schedule dated March 2019.

For the avoidance of doubt all submitted details shall be in accordance with the approved Masterplan

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified

4. The proposed layout of the each plot or development area showing the exact position of the site boundaries, the positions of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 2; above.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified

5. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 2 above.

**Reason -** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 2 above.

**Reason -** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

7. Sections through the site showing the development on its finished levels in

relation to existing levels shall be submitted in accordance with condition no. 2 above.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

8. Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 2 above. All proposals must comply with the approved Masterplan NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

9. That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, the layout, design and landscaping of the development hereby approved shall satisfy the following requirements:-
  - a) All development shall be in accordance with the design principles set out in the approved Masterplan.
  - b) All buildings shall be single or 1 and a half storeys in design.

**Reason:** To ensure an acceptable form of development which relates satisfactorily to surrounding housing in terms of scale, design and character, and protects the amenity of neighbouring residents.

10. That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, where 10 or more units are proposed or the application would be the 10th unit, the arrangements for the delivery of 10 affordable housing units (25% of the total number of proposed units on the whole site) shall be agreed in writing with the Council as Planning Authority, in consultation with the Head of Housing and Property. Thereafter, no more than 18 units shall be completed on site until at least 5 affordable housing units have been provided in accordance with the agreed arrangements and all the affordable units shall be provided prior to the completion of the 36th unit on site.

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

11. That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, where 10 or more private housing units are proposed or the application would be the 10th such unit, evidence must be provided that at least 3 units (10% of non-affordable units) shall be designed and built to wheelchair accessible spaces standards (as defined in the Moray Council 'Accessible Housing' Supplementary Guidance). For the avoidance of doubt at least 50% of the wheelchair accessible units must be delivered as a single storey dwelling with no accommodation in the upper roof space, i.e. a bungalow. Any application for more than 10 private housing units or the 10th such unit on the overall site shall include an Accessible Housing Compliance

Statement with sufficiently detailed plans to demonstrate that these requirements have been met. Thereafter, no more than 15 private housing units shall be completed on site until the accessible units have been provided in accordance with the agreed arrangements. Thereafter the internal layout of these units shall remain as built and approved in perpetuity unless otherwise agreed with the Council.

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

12. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

13. No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Council as Planning Authority in consultation with Scottish Environment Protection Agency (SEPA) and other agencies where appropriate. The CEMP shall address all pollution prevention and environmental management issues related to the development and include the following:
- a) identify all risks and incorporate all detailed pollution prevention measures, site management and mitigation measures for all elements potentially capable of giving rise to pollution during all phases of the development;
  - b) consider and identify measures which shall include (but not be limited to) matters identified within SEPA's consultation response, dated 8 April 2019 i.e. stock pile storage, ground striping and timing of works, concrete wash out areas, wheel wash stations, welfare facilities, emergency contact details, incident response procedures, waste management and full details on construction stage SUDS;
  - c) the location and design of all temporary site construction SUDS arrangements to protect the water environment including measures to mitigate and guard against run-off from the site including run-off containing soil or sediment or other contaminants;
  - d) on-site fuel and chemical storage arrangements;
  - e) timing of works, to include arrangements for heavy construction works



- f) to avoid periods of high rainfall; waste, to identify all waste streams and construction practices to minimise use of raw materials and maximise use of secondary aggregates and recycled or renewable materials; reduction, re-use and recycling where appropriate of waste material generated by the proposal and identify whether materials will likely be imported on or off the site;
- g) environmental management to identify mechanisms to control and make all construction staff aware of environmental issues including details of emergency procedures, pollution response plans and provision of spillage kits; and
- h) Where peat deposits are encountered, proposals for appropriate management and re-use/disposal of peat.

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

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

14. No development shall commence until the following details have been submitted and approved in writing by the Planning Authority in consultation with the Roads Authority for:
  - a) the widening and improvement of the existing footway on the east side of the B9011 from the existing main access to the development and the Findhorn Foundation northwards to the existing crossing refuge on the B9011; and
  - b) increasing the depth and width of the existing B9011 refuge island to the north of Findhorn Foundation/B9011 access to 3 metres by 3 metres.

Thereafter these approved works shall be completed in full in accordance with approved plans prior to the completion of the 5<sup>th</sup> residential unit on site.

**Reason** – In the interests of pedestrian and cycle connectivity to the proposed development, road safety and the provision of information currently lacking from the submission.

15. No development shall commence until a site-specific Construction Traffic Management Plan (CTMP) for the whole site has been submitted to and approved by the Council as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
  - a) construction access routes
  - b) traffic management
  - c) construction hours / delivery restriction times
  - d) program and duration
  - e) measures to be put in place to safeguard the movements of pedestrians;

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

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

16. Notwithstanding the details submitted for parking (North Whins Layout: General Layout Drawing DL 2018 16 S). Unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority, parking provision for the overall development shall be provided in accordance with the following parking standards:

- a) Up to 2 beds = 0.8 spaces per dwelling
- b) 3 beds = 1.5 spaces per dwelling
- c) 4 beds = 2 spaces per dwelling
- d) Each Cluster housing plot (Rates as above then + 0.5 spaces per additional bedroom over 4 beds)
- e) Commercial Craft Units = 1.5 spaces each.

Thereafter, no residence or craft unit shall be occupied or completed (whichever is sooner) until the parking provision has been provided to accommodate the cumulative development at the time of occupation. Parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with the development hereby approved.

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

17. All mitigation and enhancement measures set out in appendix 9 of NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019 shall be implemented in full and in accordance with the timescales set out in the approved document.

**Reason:** To minimise disturbance to nature conservation interests within the application site and ensure the protection of protected species and habitats.

18. All drainage proposals shall be in accordance with the submitted Surface Water Management Plan dated March 2019 and North Whins, Findhorn SuDS Operation & Maintenance Schedule dated March 2019. Notwithstanding the approved details trash screens must be added at inlet/outlet headwalls.

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

19. All commercial units shall be used only for Class 4 (business) or Class 6 (storage and distribution) uses as defined by The Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) with or without revocation and no other use or purpose.

**Reason:** In order to safeguard the privacy and amenity of occupants of the adjacent properties and to ensure that the planning authority retains effective control of the site.

20. 'Plot 15' as identified in the approved Masterplan NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019 shall be used for community purposes only. For the avoidance of doubt this shall not include any domestic or commercial use.

**Reason:** In order to clarify the terms of the permission hereby granted and because no such information was included in the application

**Reason(s) for Decision**

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

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

**List of Informatives:**

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

This development is subject to a S.75 legal agreement in regard to arrangements for payment of developer obligations to address the impact of the development upon primary schools, healthcare and sports and recreation facilities to be payable in instalments.

Construction/demolition works have the potential to disturb nesting birds or damage their nest sites, and as such, checks for ground nesting birds should be made prior to the commencement of development if this coincides with the main bird breeding season (April - July inclusive). All wild bird nests are protected from damage, destruction, interference and obstruction under the Wildlife and Countryside Act 1981 (as amended). Some birds (listed on schedule 1 of the Wildlife and Countryside Act) have heightened protection where it is also an offence to disturb these birds while they are in or around the nest. For information please see:  
[www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp](http://www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp)

THE ENVIRONMENTAL HEALTH & TRADING STANDARDS MANAGER, has commented that:-

Noise and vibration emissions associated with the construction phase of the development shall be suitably controlled having regard to the Control of Pollution Act 1974. The applicant shall have regard to noise control measures, including working hours, in the context of the locality and should refer to the guidance contained in BS 5228-1: 2009 + A1: 2014 Code of practice for noise and

vibration control on construction and open sites. Noise. The applicant shall also have regard to vibration control measures and should refer to the guidance contained in BS 5228-2:2009 + A1 Code of practice for noise and vibration control on construction and open sites. Vibration.

THE TRANSPORTATION MANAGER has commented that:-

Before commencing works to improve the public road, the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing [constructionconsent@moray.gov.uk](mailto:constructionconsent@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.

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.

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

SCOTTISH ENVIRONMENT PROTECTION AGENCY (SEPA) has commented that:-

Construction Environmental Management Plan

The CEMP should be site specific, detailed but concise covering issues such as stock pile storage, ground striping and timing of works, concrete wash out areas, wheel wash stations, welfare facilities, emergency contact details, incident response procedures, waste management and full details on construction stage SUDS.

A Controlled Activities Regulations (CAR) construction site licence (CSL) is 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°. We understand this site is approximately 2.58 ha so a CSL will not be required. However the proposals 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.

While a CSL is not required we recommend basing the construction surface water management proposals of the CEMP on the Pollution Prevention Plan template in section 3 of our Sector Specific Guidance: Construction Sites (WAT-SG-75). Please also refer to Guidance for Pollution Prevention (GPPs) Notes and Guidance on the construction of SUDS (CIRIA C768).

Please refer to the NetRegs website for guidance on waste management and see specifically their Waste Management Plan template which we recommend you use for the waste section of the CEMP.

Generally we find the use of maps and plans can communicate what is proposed better than lengthy text so we would encourage the use of plans drawings and photographs wherever possible to support the concise written text. This work should be undertaken with input from the contractor.

#### Regulatory requirements

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).

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at: 28 Perimeter Road, Pinefield, Elgin, IV30 6AF, Tel: 01343 547663.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
20	Location plan





## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00320/PPP**

**Site Address:**

Land To The North And West Of East And West  
Whins Findhorn

**Applicant Name:**

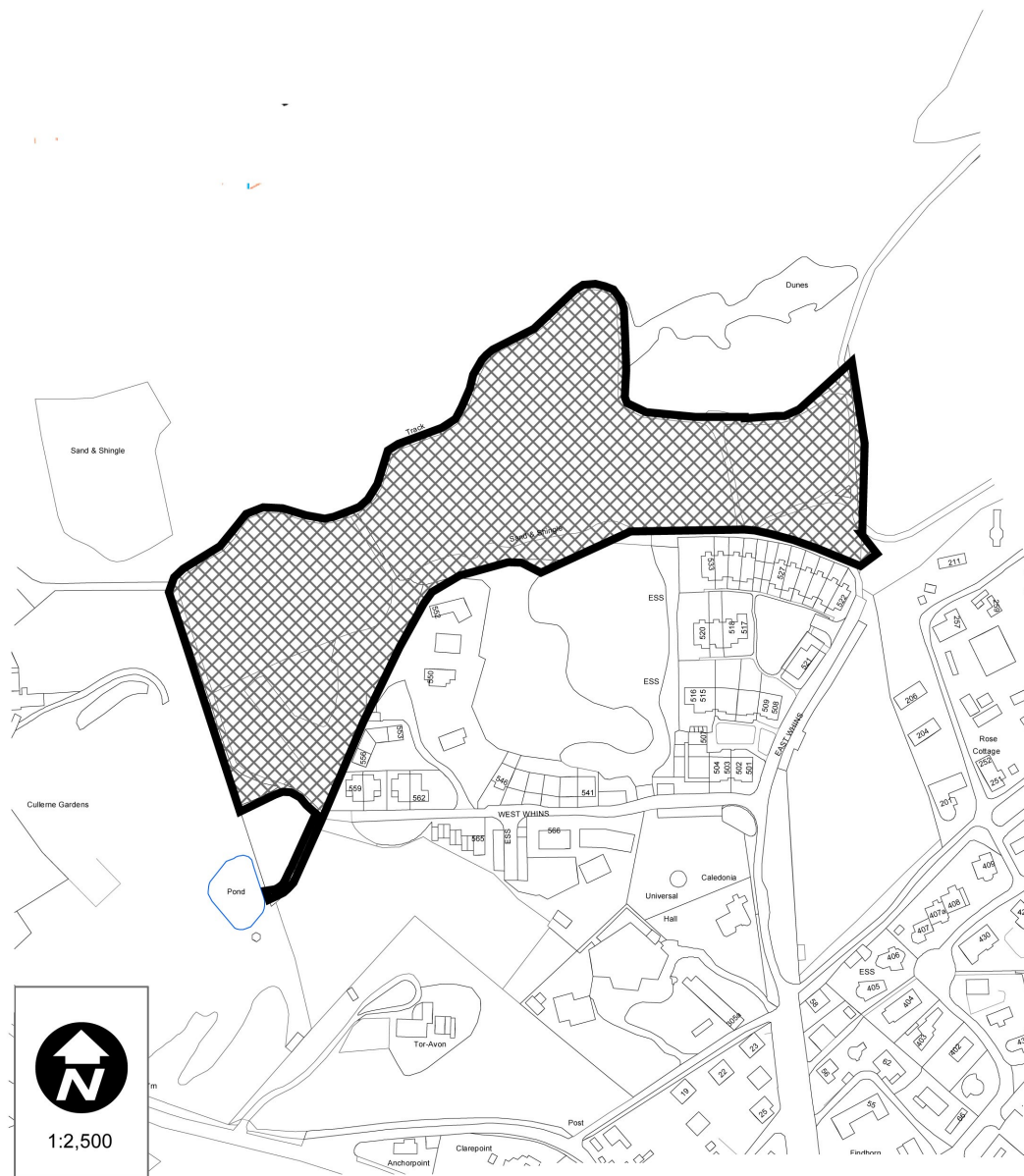
Duneland Limited

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## Location Plan







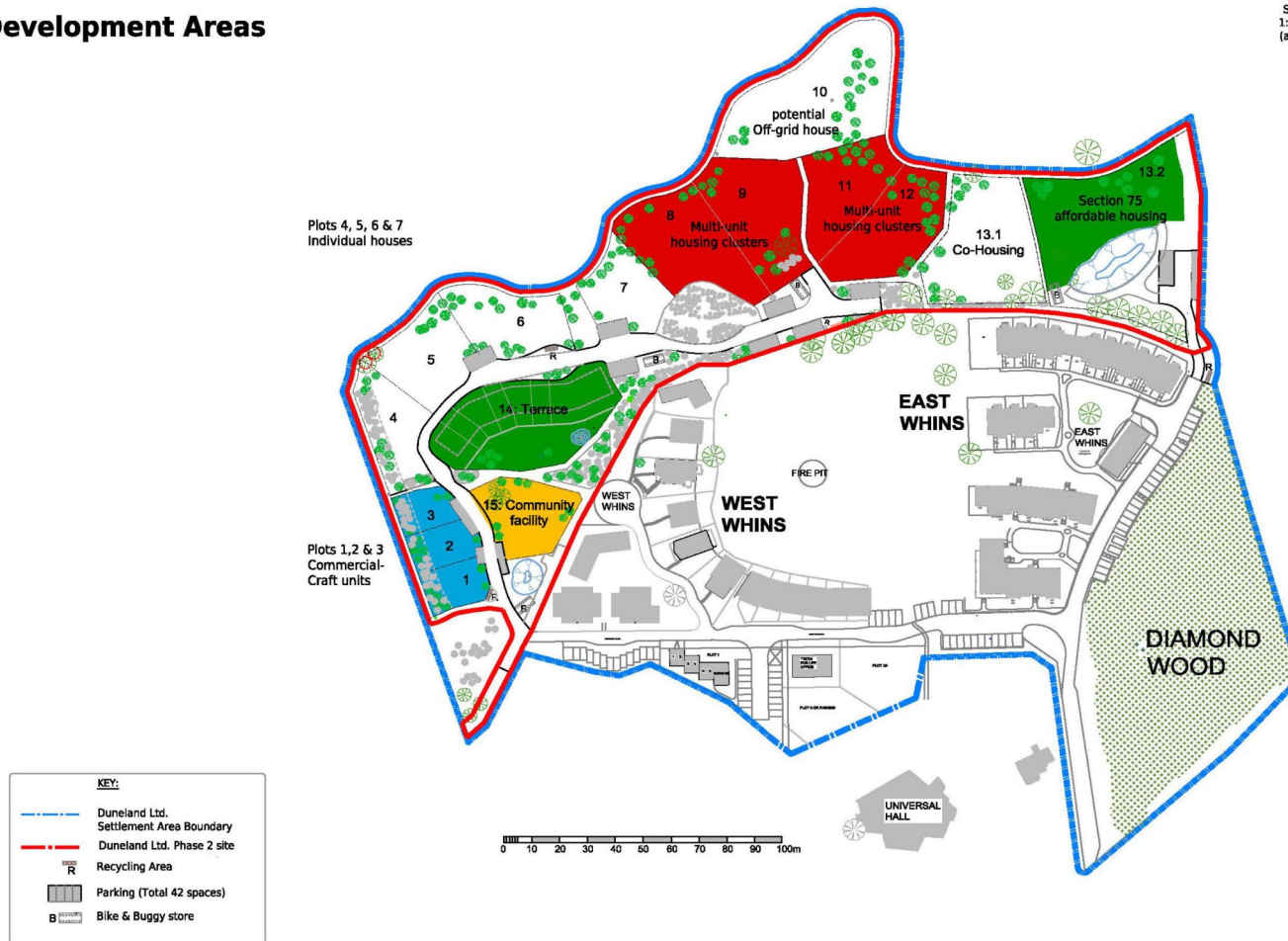
Site Location





## DUNELAND LTD. PHASE 2

### Development Areas



#### 2.4.1 Layout

The proposed layout reflects the natural bowl of the site, and the scale of the proposed buildings will be informed by the height of both the existing buildings, and the level of the Dune ridge footpath, which is bounded on both sides by mature gorse bushes. The Masterplan approach for North Whins promotes:

- An integrated design for shared outdoor spaces, boundary treatment and landscaping;
- A carefully thought-through approach to servicing which will enable features such as the SUDs basins to become features which enrich the environmental quality at North Whins;
- A consistent language of materials; predominantly timber clad buildings with a palette of colours in harmony with existing buildings;
- Carefully designed clusters of buildings which will create distinctive neighbourhoods; and
- An overall layout which ensures that the valued energy centres and ecologically significant places will be maintained as places of value in their own right.

Duneland's role in the North Whins project is to enable the development in collaboration with the community, facilitate sales of plots to individuals and groups aligned with the spirit and intent of this Masterplan, and install the necessary infrastructure to service the needs of the development.



























## PLANNING APPLICATION: 19/00320/PPP

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

### **THE PROPOSAL**

- This application (as amended) seeks planning permission in principle for 38 houses, 3 craft/commercial units and an as yet undefined community facility. Associated infrastructure, servicing and landscaping is also proposed.
- Two accesses are proposed at the east and west extremities of the site. The current layout does not envisage vehicular access through the site with plot 13.2 (8 affordable housing units) effectively having a separate access from the east.
- Three craft/commercial units are plots on plots 1-3 shown along the western boundary close to the entrance to the site.
- Space for a community facility is identified on plot 15 opposite the craft/commercial units. At present this is undefined. It may take the form of a building or it may be a play park or other similar facility.
- The 38 residential units are proposed to be provided as follows: Five individual house plots are proposed (plots 4-7 & 10), one terrace containing x nine two-bedroom units (plot 14), multi-unit clusters are proposed (plots 8-12) with each plot containing three units in a single building or similarly associated manner, four co-housing units are proposed on plot 13.1 and 8 affordable housing units are proposed on plot 13.2.
- Multi-unit and co-housing are defined in more detail in the addendum to the masterplan. Multi-housing is intended to be separate units in a single block probably with an association between occupiers, for example they may be occupied by a multi-generational family. Co-housing envisages a more communal living arrangement and may involve more shared facilities such as cooking areas.
- Ten affordable housing units are required. Eight will be provided on plot 13.2 while the location and delivery of the remaining two units will be agreed at a later date.
- The current plan shows a number of green infrastructure elements including a 6m green corridor along the boundary with Cullerne Gardens to the west, a shared garden in the south east of the site, a lichen translocation area in the centre of the site, two ponds for surface water and biodiversity purposes and tree planting along plot boundaries for stability, biodiversity and privacy.
- Connections to the public water supply and public drainage network are proposed. Separate provision for surface water drainage will be made through a further application or applications, but the application has been supported by submission of a supporting information in relation to drainage (see bullet point below). One off-grid unit is proposed in the northern part of the site.
- The existing footpath to the north of the site will be retained in its current form.
- The application is supported by a Masterplan, Pre-Application Consultation Report, Geotechnical Report, Transport Assessment, Surface Water Management Plan and an Ecological Assessment
- A proposal to replace an existing caravan within the Diamond Wood with a community facility has been removed from the current application.

## **THE SITE**

- The site is on dune land to the north of The Findhorn Foundation. The site curves round the northern part of the site around the existing development at East and West Whins and sites within the Findhorn settlement statement boundary.
- The site forms a natural bowl but is undulating with a rise to the dune-line to the north.
- There is an existing footpath around the northern edge of the site, beyond which are open area of open land.
- The site is bounded to the south by the 'East Whins' and 'West Whins' developments with a central communal area between the two.
- Cullerne Gardens is to the west of the site.
- There is woodland (known as Diamond Wood) to the east of the site.

## **HISTORY**

**17/01796/PE** - Residential development including community facilities craft and commercial units

**18/01309/PAN** - Proposed mixed use development with commercial/craft units community spaces and dwellings landscape/ecological enhancement proposals and new private road to serve development

## **ADVERTISEMENT**

- Advertised for neighbour notification purposes.

## **CONSULTATIONS**

**Strategic Planning & Delivery** - The proposal for 38 housing units, 3 commercial/craft units and a community facility is located on white land within the Findhorn settlement boundary. These proposals have been subject to early design and pre-application advice. Although this is a planning in principle application the proposal has been accompanied by a Masterplan and supporting documents including a comprehensive ecological impact assessment, transport statement and surface water management plan.

The key planning issues are set out below:

PP3 Placemaking and IMP1 Developer Requirements

Layout

The layout of the site respects the natural bowl of the site and ecologically sensitive areas are maintained. The development has been designed to wrap around the existing East and West Whins development and follows the shape of the site.

Design

As this is a planning in principle application there are no detailed house designs, however the Masterplan sets out key principles including specifying buildings will not break the height of the dune ridge and are limited to 1.5 storeys across the site. High quality materials such as slate and Forestry Stewardship Council (FSC) timber cladding are



specified. The craft units and community facility building will also be subject to the design principles.

Within the Masterplan there are also various examples of buildings across the ecovillage that will inform design concepts. Buildings will be designed to reflect the ecovillages established innovative and interesting approach to design.

#### Car Parking

Car parking on site is outwith plots and consists of blocks of four or less with low level shrubs and native tree planting in between. In addition to this much of the parking benefits from being adjacent to the green corridor that stretches from east to west across the site. These measures will assist in sensitively integrating parking into the streetscene by mitigating the dominance of parked cars.

#### Connectivity

Existing connectivity through the site has been retained with a permeable network of paths across the site with linkages to the adjacent woodland, duneland, beach and services and facilities within the ecovillage.

In terms of placemaking in order to deliver the high quality design concept set out within the Masterplan, it is recommended that conditions are placed on any planning approval granted seeking compliance with the principles set out in the Masterplan.

#### PP2 Climate Change

A separate sustainability statement has not been provided to support proposals, however the level of information provided within the masterplan itself in terms of Sustainable Urban Drainage System(SUD)s, green infrastructure, biodiversity enhancement, sustainable construction techniques and energy efficiency has met the requirements of the policy.

#### H1 Housing Land

As this is white land within the Findhorn settlement boundary the proposals are considered against criteria for windfall sites within settlements. The proposals are considered acceptable on the basis of supporting information provided evidencing the development will not have an adverse impact on the surrounding environment. The Transportation section has raised an issue in terms of car parking provision, specifically the requirement for additional parking to be shown, it is considered this can be addressed without compromising the siting and layout set out in the Masterplan. There are no other infrastructure or servicing issues identified. The site is not designated for any other use and as set out above the proposed development meets the requirements of PP2 Climate Change, PP3 Placemaking and IMP1 Developer Requirements.

#### H8 Affordable Housing/ H9 Housing Mix/Accessible Housing

Policy H8 requires that 25% of the total number of units in new developments must be provided as affordable housing. As 38 housing units are proposed, 10 affordable units will be required. The delivery of the affordable housing must be agreed with Housing and Property, prior to commencement of any housing on site.

Policy H9 requires that 10% of private sector units are built to wheelchair accessible standards as detailed in Supplementary Guidance. Therefore 2.8 accessible housing units would be required, rounded up to 3 units. The Accessible Housing Supplementary Guidance requires that "at least 50% of the wheelchair accessible units must be delivered

as a single storey dwelling with no accommodation in the upper roof space, i.e. a bungalow. Therefore 2 single storey wheelchair accessible units are required.

#### **E2 Local Nature Conservation Sites and Biodiversity**

Within the Moray Local Development Plan 2015 there is a requirement for an ecological assessment to support any development proposals. SNH has been consulted on the ecological impact assessment prepared to support the application and advised the information provided is comprehensive and covers all relevant natural heritage issues. The development seeks to preserve and enhance ecologically rich spaces through green networks, areas of sand for lichens and native tree and shrub planting. It is proposed to introduce tree planting to improve slope stability and enhance the existing natural gorse buffer.

#### **E5 Open Spaces**

The nature and characteristics of the site and its close proximity to the duneland, beach, woodlands and dancing green means a conventional amenity open space may not be the most appropriate solution. The use of green infrastructure to reflect the recommendations of the ecological assessment and reflect community engagement by maintaining a green corridor adjacent to Cullerne Gardens and creating a green corridor linking Cullerne Gardens and Wilkie Wood is welcomed. The exclusion of the community garden from development proposals also welcomed.

The policy requires a minimum 15% open space to be provided on site and it is considered that this is achievable. In all likelihood the majority of plots will not have fenced off private garden ground, the Masterplan identifies a large communal garden in keeping with the existing phases at East and West Whins.

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

The Proposed Plan is a material consideration with limited weight at this time however greater weight may be attributed to some policies and site designations following consideration of unresolved objections which are being considered by a special meeting of the Planning & Regulatory Services Committee on 25th June none of which are applicable to this proposal. On the basis of the above the proposals are considered to meet the terms of the Moray Local Development Plan 2015.

**Environmental Health Manager-** No objection.

**Environmental Health, Contaminated Land –** No objection.

**Moray Access Manager –** No objection.

**Aberdeenshire Archaeology Services-** The proposed development occupies an area in proximity to the findspot of a hoard of Bronze Age metal objects (Moray HER Ref NJ06SW0017). There is therefore the potential for previously unrecorded archaeology to survive within the development site. A condition requiring a programme of archaeological works is recommended.

**Transportation Manager-** Parking for the proposed development has been indicated on the basis of rates agreed with Transportation officers for an indicative mix and quantity of housing. Parking is shown provided on an unallocated basis across the site. Any changes to the proposed number or mix of housing will require parking provision to be



reassessed and any additional parking provided either on a similar unallocated basis or on-plot.

The development aims to encourage travel on foot and by cycle and this is reflected in the reduced parking rates and the provision of cycle parking across the site. In light of the detailed application and supporting Transport Assessment Transportation Officers have identified improvements to active travel on the route from Findhorn to Forres which would directly benefit residents and visitors to the site. These requirements were not raised during the pre-application which lacked the detail of the current application and was considered on the basis of 20-30 units.

The existing path on the east side of the B9011 from the main site entrance to the Findhorn Foundation is currently less than 2 metres wide and leads to a narrow crossing with refuge on the B9011 to access the existing cycle path and bus stop on the West side of the B9011. Improvements identified include widening the existing path to 3 metres to form a shared cycle path between the main access and the crossing and widening and deepening the pedestrian refuge at the B9011 crossing to 3 metres by 3 metres (existing carriageway width is approx. 10 metres kerb to kerb which would allow for two 3.5m lanes and a 3m wide refuge island.)

A Transport Assessment (TA) submitted in support of the application indicates that the existing site access onto the B9011 should have adequate capacity to serve the additional proposed development.

Acting Housing & Strategy and Development Manager - Policy H8 requires that 25% of the total number of units in new developments must be provided as affordable housing. As 38 housing units are proposed, 10 affordable units will be required.

Policy H9 requires that 10% of private sector units are built to wheelchair accessible standards as detailed in Supplementary Guidance. Therefore 2.8 accessible housing units would be required, rounded up to 3 units. The Accessible Housing Supplementary Guidance requires that "at least 50% of the wheelchair accessible units must be delivered as a single storey dwelling with no accommodation in the upper roof space, i.e. a bungalow. Therefore 2 single storey wheelchair accessible units are required.

**Developer Obligations** – Obligations are sought in line with policy IMP3. Contributions are being sought towards primary schools, healthcare, sports and recreation facilities. A sum of £247,000.00 is being sought.

**Moray Flood Risk Management** – No objections subject to conditions to ensure that the drainage arrangements are in accordance with the submitted Surface Water Management Plan with amendments to discharge inlet and outlets.

**Findhorn Community Council** – Object.

**AFFORDABLE HOUSING:** In the Masterplan document there is ambiguity around the restricted criteria of who is permitted to occupy the 'affordable housing' units. What is the definition of 'community'? This was discussed by visitors to the public session held in the Findhorn Village Centre as one theme of concern and noted in table in para 3.7 of Public Consultation Report with the same ambiguous answer. Another concern is that the affordable housing is lumped together rather than interspersed throughout the development.

PO response: It is recommended that the provision of affordable housing is controlled by condition. The details of the affordable housing including the tenure will be agreed with the Council's Housing Section. The provision of affordable housing would be subject to further application or applications. The masterplan indicates one area (plot 13.2) where 8 affordable housing units will be provided but no details have been provided for the additional two units required. Given the nature of the development and the intention to develop the plots individually the layout is considered to be acceptable.

LAND BOUNDARIES: Land boundaries need to be investigated as there may be a conflict of interest in terms of land ownership. Does the Findhorn Village Conservation Company land encroach into the proposed development area?

PO response: The land ownership notice submitted with the application states that the applicant owns all the land to which the application relates.

LOCAL DEVELOPMENT PLAN: This is the third tranche of housing on the Park which was approved several years ago within that current local plan. The total applied for in that application was about 65 and it appears that this total may have been exceeded. This will be the third Whins development (East and West Whins completed) and there is further planning application for twelve units at the entrance to the Park as well as a single dwelling 19/00042. Has the Park exceeded number of houses agreed in the local plan?

This development is not in the Local Plan – it is not on an area designated for residential build. The planning application for 38 new dwellings, three commercial units and a community centre represent a gross over development in terms of the stated Housing Land Requirements for Findhorn up to 2025.

PO response: The application site is not specifically designated for housing in the MLDP 2015 or the emerging Local Plan therefore there is no indicative housing capacity for the site.

INFRASTRUCTURE: The present and proposed infrastructure is not adequate for such a development. There is only one road and no second access road proposed, nor are there any emergency routes for vehicles in and out of the proposed development which is in a high risk fire area (gorse fires).

PO response: The Transportation Section have not identified a need for a second access. An emergency access plan is included in the Transport Assessment. While no formal second access is proposed the plan identifies two emergency routes that could be used should the main access be blocked.

TRAFFIC FLOW: There are concerns about traffic flow in the Park both during the construction period and at busy times of year when thousands of visitors flock to the Park. In the Park, pedestrians have priority over vehicles and as there are no pavements, pedestrian safety is an issue which will be worsened with extra traffic and development of more housing.

PO response: The impact of traffic both during the construction phase and on completion of the development is addressed in the observations section below. It is recommended that a construction phase traffic management plan is sought by condition to ensure construction traffic is effectively managed.

**ENVIRONMENTAL AND VISUAL IMPACT:** The size of the proposed development is very large and the natural boundary of the Findhorn Foundation Park is being lost. It is now starting to sprawl out into the dunes area and encroach on a site of significant scientific interest in terms of flora and fauna.'

PO response: The impact on the natural environment is fully addressed in observations section below. Where necessary environmental impacts will be mitigated against and the impact is considered to be acceptable.

**HOUSING NEEDS:** The proposal is to provide sites. How much evidence gathering has there been of need for housing in this 'exclusive' location? There is a lack of information about proposed builder/investors/homeowners and there are local concerns about more absentee home owners – already an issue in the area.

PO response: The market for this proposal is a matter for the developer. The potential for second home ownership is not a material consideration.

**Scottish Water** – No objection

**Scottish Natural Heritage-** SNH advise that the ecological impact assessment report is comprehensive and covers all relevant natural heritage interests that may be affected by the proposal. SNH agree with the conclusions and recommendations set out in the report and that the mitigation and enhancement measures set out in Appendix 9 are appropriate.

SNH recommend that all mitigation and enhancement measures in Appendix 9 are adopted and implemented in full.

**Scottish Environment Protection Agency-** No objection subject to a condition requiring a Construction Environmental Management Plan (CEMP). The environmental management measures proposed and example waste assessment in section 9 of the Preliminary Geotechnical Ground Investigation Report are welcomed. This application is for planning permission in principle so final proposals are not confirmed at this stage therefore a condition requiring the submission of a CEMP is necessary.

Disruption to wetlands including peatlands

At the pre application stage SEPA commented on the dune slacks and advised the planning submission should confirm whether there are any Groundwater Dependant Terrestrial Ecosystems (GWDTE) present in the proposed development area, and if so demonstrate these have adequate buffers to protect them. SEPA accept the Geotechnical Ground investigations and Phase 1 mapping, in the Ecological Impact Assessment, and agree there are no issues regarding GWDTEs in this development. The only saltmarsh surveyed was on the 250m boundary to the South of the development and not within any impact zone being separated by current development and roads already. Therefore in regard to our remit SEPA have no objection in regard to disruption to wetlands.

Environmental enhancements/placemaking

SEPA previously commented with support for the environmental enhancements proposed at the pre application stage. We welcome the promotion of the placemaking measures detailed in the Master Plan, dated March 2019, such as the green infrastructure and promotion of biodiversity measures.

SEPA have reviewed the information supplied with this consultation and we note that the application site lies outwith the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Maps for coastal and fluvial flooding. SEPA have no records of flooding in the vicinity of the site.

However, small parts of the site have been identified as being at medium to high risk of surface water flooding. These areas correlate with depressions in the topography at the site. Surface water flooding can be managed in many developments by engineering solutions and may be addressed by installation of Sustainable Urban Drainage Systems (SUDS). SEPA consider water quantity aspects of surface water drainage to largely be the remit of local authorities and as such we have no detailed comments on surface water flooding at the development.

SEPA hold no other information to indicate the site is at flood risk. Therefore we have no objection to the proposed development on flood risk grounds. Notwithstanding this SEPA expect Moray Council to undertake their responsibilities as the Flood Prevention Authority in regard to the surface water flooding issues.

## 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 Data Protection Act (paragraph 3 of Minute, Planning and Regulatory Services Committee, 16 September 2014).

66 representations (55 objections and 11 in support) received from:

### In support

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### Objections

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]

The main points of the representations are:

Issues raised in opposition to the development

**Issue:** Development on this land was removed from the proposed 2008 Local Plan at Public Local Inquiry (PLI).

**Comments:** Additional development on the dune land was considered at PLI in relation to the proposed 2008 Local Plan. That Local Plan was subsequently adopted then superseded by the Moray Local Development Plan 2015 which was subject of its own PLI. The current application must be assessed against current policy as set out in the Moray Local Development Plan 2015.

**Issue:** A hearing or PLI would afford greater public scrutiny.

**Comments:** The correct procedure has been followed and there is no requirement for a hearing or PLI in this case under the Moray Councils approved scheme of delegation.

**Issue:** Additional consultation should have been undertaken as part of the statutory Pre-application Consultation (PAC) and Moray Council should have been involved.

**Comments:** A Proposal of Application Notification (PAN) (18/01309/PAN) was submitted in respect of this application. The applicant consulted with Findhorn and Kinloss Community Council and held a public event, which was well attended by the public. The Council confirmed that this was sufficient to meet their statutory obligations and no further consultation was sought at that stage. The PAC process is an opportunity for the applicant to engage with the local community and the planning authority is not involved at this stage.

**Issue:** The submitted plans do not accurately show the existing Duneland development

**Comments:** The submitted location plan is based on Ordnance Survey base mapping which is beyond the control of the developer or the Council. The submitted plans do accurately show the extent of Duneland Development which is still under construction.

**Issue:** Compliance with MLDP 2020

**Comments:** On 18 December 2018, at a special meeting of the Planning and 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. Only following a Public Examination process (similar to an Inquiry) would the MLDP 2020 be presented to the Scottish Government and permission sought for its formal adoption.

**Issue:** The site is not designated in the Moray Local Development Plan (MLDP) and does not form part of the housing needs assessment

**Comments:** The application site is not a designated housing site in the current MLDP and therefore does not form part of the housing needs assessment. However, it is within the settlement boundary of Findhorn as identified in the MLDP. Policy H1 is supportive of

windfall sites within settlement boundaries where the other policies of the MLDP are complied with. The site will thereafter be considered on its individual merits.

**Issue:** A formal EIA should have been provided

**Comments:** The development has been screened as an EIA development. While it determined that the development did not require to provide an EIA assessment, a comprehensive ecological report has been provided. This has been assessed by SNH who are content with its findings and recommendations. The scale of the proposed development and its absence from any national, or local environmental designations did not give rise to any significant environmental affect.

**Issue:** The development represents an overdevelopment of the Findhorn Foundation Site

**Comments:** The proposal is considered on its own merits in the context of existing and approved development. The current proposal for 38 units on a site of 2.5 ha is a relatively low density development. It is considered that there is sufficient space available to accommodate development at this level without undermining the character or setting of the foundation or the wider area.

**Issue:** The development will put greater pressure on water supply and sewage works

**Comments:** With the exception of the proposed off-grid plot the development will be connected to the public sewer and water supply. Scottish Water has no objection to the planning application but it is for the developer to secure utility capacity.

**Issue:** There are insufficient arrangements in place to deal with fire and no through road or second access are proposed

**Comments:** The concerns of residents in this regard are noted. An emergency access plan is included in the Transport Assessment. While no formal second access is proposed the plan identifies two emergency routes that could be used should the main access be blocked. Any buildings would need to obtain a separate Building Warrant, for which, fire prevention and protection measures are assessed.

**Issue:** Impact on birds including 'red list' species

**Comments:** Ground nesting birds are protected by the Wildlife and Countryside Act. An informative will be added advising the developer of their responsibilities in this regard. Pre-construction checks will be required to ensure no nests are disturbed. It is recognised that yellowhammer and linnet which are both on Birds of Conservation Concern 4 (BoCC 4) Red list due to their conservation status may be impacted by the development. However, alternative desirable habitat is available for them elsewhere in the dunes.

**Issue:** Impacts on amphibians and insects

**Comments:** Alternative habitats will be created in the form of ponds and gardens which will be attractive to amphibians and insects. The submitted Sustainable Urban Drainage System details note that no gulley pots will be used in order to prevent toads and other animals being trapped.

**Issue:** Impact on lichen beds

**Comments:** The impact on lichen is recognised. The ecologists report recommends a lichen translocation bed and other measures such as minimal tree planting on-site and dune regeneration off-site which will serve to good conditions for lichen.

**Issue:** Impact on red squirrels

**Comments:** Red squirrels are arboreal. No woodland removal is proposed as part of this application so there will be no loss of habitat or important woodland connections. The applicant's ecologist suggests that the most significant impact on red squirrels is likely to come from increased predation by domestic cats. It is suggested that information packs to new residents highlight this issue but it is not a matter than can reasonably be controlled by the planning authority.

**Issue:** The proposed ecological mitigation is welcomed but there will still be an overall negative impact on biodiversity

**Comments:** It is acknowledged that the development will have an impact on biodiversity. However a comprehensive ecological report has been submitted which includes proposed mitigation and enhancement measures. SNH are content with the findings and recommendations of the report and the biodiversity impact is considered to be acceptable.

**Issue:** Complex ecological mitigation will be difficult to enforce.

**Comments:** A condition is recommended requiring the mitigation measures set out in appendix 9 of the ecologist's report to be implemented in full. It is considered that these measures are enforceable and that the condition is therefore competent. One requirement is that information packs are provided to new residents identifying environmental sensitivities. It is acknowledged that the subsequent behaviour of individual residents is beyond the control of the planning authority.

**Issue:** Coastal erosion already impacts on the dunes

**Comments:** Coastal change is increasingly recognised as an issue for development. Where appropriate detailed proposals may have to include suitable resilience measures. The site however in the current location, is not at risk of coastal change.

**Issue:** Flood Risk

**Comments:** The site does not appear on SEPA maps of areas known to be at risk of coastal or fluvial flooding. Parts of the site are identified as being at risk of surface water flooding. It is recommended that the management of surface water is a matter specified in condition and will be dealt with as part of a further application or applications. However, a Surface Water Management Plan has been provided. This identifies a strategy for dealing with surface water that will ensure that surface water is suitably managed and that development does not increase the risk of flooding on site or elsewhere.

**Issue:** The site may be contaminated by buried radioactive waste as identified in a 2016 SEPA report.

**Comments:** The Council's Contaminated Land has advised the report referred to in representations relates to a specific site of known radioactive contamination which is approximately 750 metres from the application site. This known area of contamination has no bearing on the proposed development. The Council has no information to indicate that sites outwith Kinloss Barracks are at risk from radioactive contamination.

**Issue:** Loss of open space

**Comments:** While the development will result in a loss of open space, areas of open space are identified within the site in accordance with policy E5. This will be controlled through the submission of a further application or applications. It is noted that there is significant open space around the site and the wider open character of the wider area will remain.



**Issue:** Development must not impact on the adjoining Burghead Findhorn Coast Area of Great Landscape Value (AGLV).

**Comments:** For the avoidance of doubt the application site is not within the AGLV but immediately abuts it to the south of the protected site. The need to protect key views is recognised. It is recommended that design and siting are matters specified in condition and a further condition is recommended limiting all buildings to single or 1 ½ storey only. This would constitute sufficient mitigation in the regard. The Findhorn Foundation and nearby Findhorn village are already present close to the AGLV. This would formalise the guidance established in the submitted Masterplan.

**Issue:** Air pollution

**Comments:** The proposed development, given its character and density will not give rise to any specific air pollution issues. The Environmental Health Section has been consulted but has not raised any concerns in this regard.

**Issue:** Impact of construction noise and vibration and construction traffic over an extended period.

**Comments:** Piecemeal development of the site is likely to extend the period during which construction works takes place. Nuisance arising from building works is principally a matter for the Environmental Health Section. An informative is recommended that highlights the need to be mindful of legislation and good practice on construction working hours, noise and vibration. The conditions recommend a Construction Environmental Management Plan which will help mitigate the impact during the construction period.

**Issue:** Lack of a strict design code will lead to a wide range of building styles

**Comments:** It is recommended that design is a matter specified in the recommended conditions. Further applications will be guided by the submitted masterplan. It is acknowledged that the document is not a prescriptive design code and indeed encourages 'innovative and interesting' design solutions. However, it does contain guiding principles on matters such as the use of materials and sustainable construction processes which will ensure a degree of coherence to the overall development and broad adherence to development plan policy. The Park is characterised by a mix of modern and traditional designs and an overly prescriptive design code is not considered necessary in this setting.

**Issue:** Potential for overlooking of existing properties

**Comments:** The impact on the amenity of existing properties will be fully considered as detailed proposals come forward through a further application or applications. This representation is speculative, given the application is in principle only.

**Issue:** The Park already has already had an impact on the village of Findhorn and the proposed development will compound this.

**Comments:** The site is within the settlement boundary of Findhorn as identified in the current MLDP but a clear distinction between the Park and the rest of the village will remain. The proposal is considered to be sensitively sited and will not adversely impact on the wider village. Both have existed in situ for many years.

**Issue:** Affordable housing is in a less desirable location

**Comments:** The indicative site layout contained in the masterplan shows a dedicated area for affordable housing on plot 13.2 in the far eastern portion of the site. A separate access is also proposed to this part of the site. It is recommended that details of the affordable housing provision would be dealt with as part of a further application. The developer has indicated that eight of the required ten affordable units would be provided

on plot 13.2 and the other two units would be provided elsewhere on the site. The Council's Housing Section is content with the proposals that have been presented to date. The affordable housing is largely grouped together in one portion of the site. This reflects the intention that each plot identified on the indicative masterplan could potentially be developed by different developers. It would therefore be difficult to provide affordable housing throughout the development but it will be fully integrated with the wider development and the Park. The proposed location is no less desirable than any other part of the proposed site.

**Issue:** Lack of detail on proposed groundworks

**Comments:** A preliminary geotechnical report which includes sections through the site has been submitted as part of this application. More detailed information would be required as part of a further application or applications.

**Issue:** Lack of a pedestrian link to the rest of the park

**Comments:** The submitted site plan indicates several pedestrian links to the existing development at East and West Whins and to the existing paths to the north and west of the site. The Transport Assessment states that these follow existing desire lines. It is recommended that details of pedestrian connections are sought as part of a further application or applications. It is also recommended that improvements to the pedestrian route between Findhorn and Forres are sought by condition.

**Issue:** The submitted traffic survey was done at a quiet time of year

**Comments:** This Transportation Section takes account of a number of variables when assessing the submitted information. The unique nature of the setting is part of the assessment and this was taken into account when the parking standard for the development was agreed with the Council's Transportation Section. It is noted that the agreed standard is still higher than that applied to previous developments.

**Issue:** Lack of parking is already an issue in the Park

**Comments:** The application is assessed on the basis of the parking required for the development proposed. In this instance the development seeks to encourage active travel through the provision of good pedestrian links and cycle stores and an appropriate parking standard has been agreed with the Transportation Section. The roads within the Park are private and parking issues are therefore a matter for the landowner and relevant stakeholders.

**Issue:** The requirement to provide parking is at odds with the ethos of the Park

**Comments:** The development seeks to encourage active travel through the provision of good pedestrian links and cycle stores. This is reflected in the parking standard that has been agreed with the Transportation Section. Parking exists elsewhere throughout the foundation.

**Issue:** The development will bring more traffic into The Park

**Comments:** The development will bring more traffic into The Park. The roads within The Park are private and therefore do not fall within the remit of the Council's Transportation Section. The Transportation Section is content that the junction between The Park and the public road is adequate to serve the additional development.

**Issue:** No street lights or pavements are proposed

**Comments:** The roads within the development will remain private. Provision of this kind would therefore be at the discretion of the developer.

## Non material considerations

**Issue:** Loss of views

**Comments:** The impact on amenity has been assessed but loss of views by individual households is not a material consideration

**Issue:** Potential for second home ownership

**Comments:** The control of plot sales is a matter for the developer, and would not constitute a material planning consideration.

**Issue:** The land was purchased to preserve the dunes.

**Comments:** This is a matter for the developer and the relevant landowners.

**Issue:** Developer is more concerned with profit than creating a high quality development.

**Comments:** This is a matter for the developer and the Findhorn community.

**Issues:** The values of the community will be diluted by a further influx of people.

**Comments:** This is a matter for the developer and the Findhorn community.

**Issue:** The sale of plots will be restricted by the developer.

**Comments:** The control of plot sales is a matter for the developer.

**Issue:** Existing sub-standard accommodation within the park should be converted instead of building more housing.

**Comments:** Existing accommodation is not part of this application. The application must be assessed on the basis on which it is presented.

**Issue:** Existing paths and other areas are not suitable for disabled people

**Comments:** This is an existing situation and as such not covered by the current application. The developer should consider access for all when bringing forward detailed proposals for the site. The separate Building Warrant process will consider the issue of disabled access also, beyond the provisions of accessible housing through the planning process.

**Issue:** Additional development will place undue pressure on existing communal facilities within The Park.

**Comments:** This is a matter for the relevant stakeholders.

**Issue:** Additional development will put further pressure on the private road through The Park and greater maintenance costs.

**Comments:** This is a matter for the relevant stakeholders.

**Issue:** Removal of gorse last year

**Comments:** It is understood that some gorse was removed last year to form fire breaks. This is not part of the current application and was investigated. No planning permission was required as the vegetation removal that did occur did not constitute development.

## Representations in favour of development

- Community based housing and business scheme in line with the ethos of the community

- Supports vibrancy of the community
- Example of sustainable development
- The development will be surrounded by dune-land
- The development is of an appropriate density
- The proposals have been altered to reflect some of the concerns raised
- Infrastructure has been designed to keep with the whole Duneland development
- The area was already extensively disturbed when the airbase was built.

## **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. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the “settled view” of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.

- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019.

In this case the proposal is not subject to a designated site.

The main issues are considered below.

### **Compliance with policy (H1 & IMP1)**

The application site is not a designated housing site but is white land within the settlement boundary of Findhorn as identified the MLDP. It is therefore being assessed as ‘windfall site’ as referred to in H1 Housing Land. Policy H1 states that new housing on windfall sites is acceptable where the proposal does not adversely impact on the surrounding environment, the site can be adequately serviced, the site is not designated for an alternative use and the requirements of policies PP2, PP3 and IMP1 are met. The proposed development relates well to the existing development at East and West Whins and would effectively round off development in this part of the settlement as identified in

the MLDP. The dune ridge to the north provides containment for the site and is a natural boundary for this part of the settlement. The application site is discrete area between the existing development at East and West Whins and the wider dune land. Development on this site represents a logical conclusion of the development in this part of the settlement that can be achieved without encroaching on the more open and wild land beyond. Furthermore, the development will not undermine the setting of the immediately adjoining development or the wider settlement.

In accordance with policy H1 it is demonstrated below that subject to conditions any adverse impacts on the surrounding environment can be adequately mitigated and the site can be adequately serviced and suitable infrastructure provided. The site is not designated for any alternative use and as is discussed in the relevant sections below the proposal meets the requirements of policies PP2, PP3 and IMP1. Subject to conditions and assessment identified below the proposals is considered to accord with policy H1

### **Impact on the Natural Environment (E2, E3, E4 & IMP1)**

The proposal has been screened under Environmental Impact Assessment (EIA) Regulations as part of the planning application process, and not considered to constitute a development requiring EIA but a comprehensive Ecological Assessment has been provided. The survey highlights potential impacts on ground nesting birds, amphibians and lichen. The report also includes a programme of mitigation. This includes some general mitigation and enhancement measures including the removal of non-native species on site, provision of information packs for new residents and the restoration of dune land off site along with more targeted mitigation measures. In respect of ground nesting birds it is noted that both yellowhammer and linnet which are both on the Birds of Conservation Concern 4 (BoCC 4) Red list due to their conservation status were found on site however desirable alternative habitat is available elsewhere in the dunes. Ground nesting birds are protected by the Wildlife and Countryside Act. An informative is recommended advising the developer of their obligations under the Act. Pre-construction checks will be required to ensure no nests are disturbed. The proposed scheme of green infrastructure will provide alternative habitats including ponds and gardens which will be attractive to amphibians and insects. The submitted SUDS drainage details note that no gully pots will be used in order to prevent toads and other animals being trapped.

It is also acknowledged that there will be an impact on lichen on the site. However, a lichen translocation bed and other measures such as minimal tree planting on-site and dune regeneration off-site are proposed. It is recognised that the development will have an impact on biodiversity and the wider natural environment. However the proposed mitigation and enhancement measures will serve to counter the impact and are considered to be acceptable in this case. In line with the advice from SNH a condition is recommended requiring the mitigation measures set out in appendix 9 of the ecologist's report to be implemented in full. Subject to the recommended conditions the proposal is considered to be acceptable in accordance with policies E2 and E3.

While the application is in principle only, a scheme of 'green infrastructure' has been proposed. It is recognised that the nature of the dunes and the ecosystems they support is such that extensive tree planting is not suitable in this location. However, some tree planting is proposed along plot boundaries both for privacy and dune stabilisation. A green corridor is to be provided along the boundary with Cullerne Gardens to the west and a wildlife corridor is to be formed along the southern boundary linking Cullerne Gardens in the west to Wilkies Wood in the east. Tree removal on the site is to be kept to a minimum

and the gorse to the north is to be retained. The current proposals are indicative only but a condition is recommended that would require these proposals to be carried forward into further applications. This will ensure that the development is effectively assimilated into the surrounding landscape and that the intended biodiversity and amenity benefits are provided. This will ensure compliance with policies E4 and IMP1.

The site is immediately adjacent to the Findhorn and Burghead Coast Area Great landscape Value (AGLV). It will be important to protect key views and prevent any adverse impact on the AGLV. This will form part of the assessment of further applications, but it is not considered that development of this nature, within the settlement boundary would cause any degradation of the AGLV designation.

In line with the comments from SEPA it is recommended that a Construction Environmental Management Plan is sought by condition. This will cover issues such as storage of materials, management of waste and construction phase SUDS. It is recommended that a CEMP is sought for the whole site and thereafter for individual plots. This will ensure that each phase of the development is carried out in a manner that protects the environment and prevents pollution.

### **Layout & Siting (H1, IMP1 & E5)**

An indicative layout of the site is included within the Masterplan. This layout shows development running east to west across the site with larger plots to the north. This broadly reflects the layout of the adjacent development at East and West Whins and effectively rounds off the development within the settlement boundary contained in the MLDP. It is recommended that the overall layout of the site and the layout of individual plots are matters specified in condition, but the general layout presented in the masterplan is acceptable. A condition is recommended that would require a comprehensive layout of the site to be submitted and agreed before proposals for any individual elements could come forward. This would allow the planning authority to retain control of the development and ensure it is developed in a coherent manner even if the site is developed in a piecemeal fashion by different developers. If an application for a detailed layout including elements such as roads and shared Surface Water SUDS Drainage was approved it would allow the developer to proceed with work on the shared part of the scheme which would facilitate other parts of the development.

An initial Geo-technical report has been provided in support of the application. This found that the site is unstable and significant further work will be required before any development can take place. Earth works will be required to reduce the gradient of existing slopes and slope stabilisation measures will be required to stop future movement. Details of the required earthworks and slope stabilisation work will be required as part of a further application or applications.

Policy E5 requires a 15% open space allocation for new developments of this scale. Given the size of the site and density of development proposed this is considered to be achievable. The Masterplan identifies a large communal garden along with other green spaces and landscape areas. It is recommended that a condition (condition 3) is attached requiring confirmation of the open space provision as part of a further application or applications. This will ensure that the development complies with policy E5.

The submitted layout identifies three commercial units (plots 1-3) and one plot (15) for an unspecified community use. These elements would all be assessed in detail as part of a

further application or applications. These proposals are in line with the current mix of uses in The Park and would be compatible with the largely residential development around it. The Masterplan indicates that the three commercial units would be used for small offices or studios. A condition is recommended to restrict the use of these units to class 4 or Class 6 (as defined by The Town and Country Planning (Use Classes) (Scotland) Order 1997). This would restrict the use to offices (other than financial or professional services), research and development or light industrial processes of a type that would typically be found within a residential area (class 4) or storage and distribution (Class 6). Under the General Permitted Development Order changes between class 4 and class 6 uses are permitted without planning permission. It is considered that such uses would be appropriate in this setting and could be accommodated on site without adversely impacting on the amenity of existing or future residents. The use of the proposed community facility is not defined. This could take the form of a building for some type of community use or may be a playpark or similar. A condition is recommended that would make clear that this plot is for community use only and cannot be used for residential or commercial purposes.

### **Design and materials (PP3 & IMP1)**

It is recommended that design and materials are matters specified in conditions. The precise details of all houses and commercial units will be assessed as part of a further application or applications. The submitted Masterplan includes a design code which supports the innovative and interesting designs that reflect the design principles of existing development within The Park without being overly prescriptive. The masterplan indicates that buildings should be limited to a maximum of 1½ storey and a condition to this effect is recommended. It is noted that the masterplan proposed that new housing be positioned and laid out so as not to break the line of the dune ridge but this has not been recommended in conditions, as definition of how such a line of sight would be an imprecise requirement to place in a condition. The Masterplan also contains guidance on the use of materials and sustainable construction methods. All detailed proposals will be assessed against the policy and guidance in force at the time. It is anticipated that the development will produce a range of novel responses to the topography of the site and the context of development within the Park. In this setting this is considered to be acceptable and a stricter design code is not considered to be necessary in this case.

### **Residential Amenity (IMP1)**

All future detailed applications must fully address the impact on residential amenity as required by policy IMP1 Developer Requirements. All buildings must be sited and designed in a manner that does not adversely impact on individual or communal amenity. Development that would result in overlooking or loss of privacy will not be supported. It is recognised that there will be some impact on amenity during the construction phase however this will be for a limited period only. An informative is recommended reminding the developer of the responsibilities in relation to construction working hours, dust and vibration during the construction phase. This is primarily the responsibility of the Environmental Health Section. It is noted below that a Construction Phase Traffic Management Plan will also be sought to ensure that construction traffic is effectively managed and does not cause undue disruption.

### **Access and Parking (T2 and T5)**

The site will be accessed using the existing access to the public road from existing Findhorn Foundation junction. The development will connect to the existing internal roads at the east and west of the application site but no through road is proposed. No additional access to the public road is proposed as this is not considered necessary as part of this development. A Transport Assessment (TA) has been submitted which found that the existing junction at the public road is capable of accommodating the additional traffic associated with the development. This will ensure safe entry and exit to the site in accordance with policy T2. It is noted in response to representations regarding fire safety that an emergency access plan is also provided within the TA. This identifies two points of access that could be used in an emergency if the main route was blocked. The roads within the foundation are private and the roads proposed through the development will also remain private. The impact of the development on these private roads and their management and maintenance are matters for the landowners and relevant stakeholders. The access arrangements are considered to be acceptable for the purposes of the development proposed.

The application seeks to encourage active travel and it is noted that cycle parking and pedestrian routes are identified throughout the site. In addition a condition is recommended that would require the existing 2m path from the junction with the public road to the existing pedestrian crossing to 3m and widening and deepening the existing pedestrian refuge to 3 x 3m. These improvements to the existing public pedestrian and cycle route will enhance safe options for active travel to and from the site in accordance with policy T2 Provision of Access.

Notwithstanding the developer's commitment to active travel parking provision has been shown on the site. The final parking layout would be agreed as part of a further application or applications. A condition is recommended that sets out parking standards that have been agreed. These require 0.8 spaces for units of 2 bedrooms or less, 1.5 spaces for 3 bedroom units and 2 spaces for 4 bedroom units Up to 2 beds. The clusters will be assessed on the same basis with 0.5 spaces for any bedroom over 4. The commercial units will require 1.5 spaces each. This parking rate has been agreed with the Transportation Section and reflects the nature of the development and its relationship with the rest of the foundation. The proposed parking levels are considered to be sufficient for the proposed development and the nature of the development is such that additional informal parking could take place without interrupting the movement of traffic. It should be noted that as the roads within the foundation remain private parking enforcement would be a matter for the landowner and other stakeholders. Subject to the recommended condition the parking proposals are acceptable and accord with policy T5 Parking Standards.

It is recommended that a Construction Phase Traffic Management Plan (CPTM) for the overall site and individual plots will be sought by condition. This will ensure that construction traffic is effectively managed and does not result in any undue disturbance for existing residents. The proposals would therefore comply with the various relevant transportation policies as described above.

### **Provision of Affordable Housing (H8)**

Policy H8 requires that 25% of the total number of housing units on any development are affordable housing. In this instance 38 houses are proposed and therefore 10 affordable units are required. The plans indicate that eight units will be provided on plot 13.2 in the east of the site. It is understood that a developer and funding stream has been identified



for this element of the scheme. The draft proposals are acceptable to the Housing Strategy and Development Manager in terms of the proposed means of delivery and tenure but these details would have to be formalised by means of a further application or applications. The additional two affordable units will have to be provided elsewhere within the site or by some other process. No proposals for these two units are contained in the current application. A condition is recommended that will require the details of all the affordable housing to be agreed when ten units (affordable or otherwise) are proposed or an application for the tenth unit is submitted. Thereafter half the affordable housing would be required on completion of 15 units on the site and the rest on completion of 36 units. This would not preclude earlier delivery of the affordable housing. For the avoidance of doubt the affordable housing element would have to be considered as part of a further application or applications. The recommended condition will ensure that affordable housing is timeously provided in accordance with policy H8 Affordable Housing.

### **Provision of Accessible Housing (H9)**

Policy H9 requires that 10% of the non-affordable housing units are built to accessible standards as set out in the relevant supplementary guidance (SPG). The SPG further requires that at least 50% of the accessible units must be delivered as a single storey house with no upper floor accommodation. Twenty eight private units are proposed therefore three accessible units are required and two of these must be single storey. No details of how these requirements will be met have been provided at this stage where the application is in principle only. A condition is recommended that would require details of the accessible housing provision to be provided where ten or more private housing units are proposed or when the tenth such unit is proposed and for the accessible units to be provided prior to the completion of the 15th private housing unit. This would not preclude the earlier delivery of the accessible units. For the avoidance of doubt the details of the accessible housing would have to be approved as part of a further application or applications. The recommended condition will ensure that accessible housing is timeously provided in accordance with policy H9 Housing Mix/Accessible Housing.

### **Drainage, Flood Risk and Water Supply (EP5, EP7 & EP10)**

The site does not appear on SEPA maps of coastal and river flooding but parts of the site are identified as being at risk of surface water flooding. It is recommended that surface water drainage is a matter specified in condition but a Surface Water Management Plan and a Sustainable Urban Drainage System (SUDS) maintenance schedule have been provided. This document demonstrates how surface water can be managed in accordance with local and national guidance. The proposals include two new SUDS ponds which will also provide new habitats and biodiversity enhancement. Permeable paving and soakaways are also proposed. Moray Flood Risk Management has no objection to the proposals subject to minor adjustments to the proposals which are reflected in the recommended conditions. The surface water arrangements for individual parts of the development will be considered as part of a further application or applications. Any detailed proposals that come forward should be in accordance with the details submitted as part of this application. Subject to the recommended conditions the proposals will ensure that that surface water is effectively managed and that development does not increase the risk of flooding on site or elsewhere. The proposals accord with policies EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) and EP7 Control of Development in Flood Risk Areas.

The development will be connected to the public sewer and water supply. Scottish Water has no objection to the proposal but it is the responsibility of the developer to secure a connection to public utilities. The proposal accords with policies EP5 and EP10 Foul Drainage.

### **Sustainability (PP2)**

In accordance with policy PP2 information has been provided to highlight the measures taken in relation to issues identified in the Council's Supplementary Guidance: Climate Change. The supporting information includes details of green infrastructure and biodiversity mitigation and active travel is addressed through the provision of cycle parking and connections to routes in the wider development. More detailed information would be provided as part of a further application or applications but the supporting information makes clear that sustainable materials and construction techniques will be used throughout the development. Modern and innovative designs will also be encouraged. This will allow the development to be adaptable to meet the changing needs of occupants and could also respond to the changes of climate change. Information on SUDS has been provided but it is recommended that this is a matter specified in condition.

Overall, the supporting information demonstrates that the development meets climate change objectives in so far as they are applicable to this development and on this basis the proposal is acceptable and complies with policy PP2 Climate Change.

### **Archaeology (BE1)**

The site is close to the location where a hoard of Bronze Age metal objects was found. Due to the potential for unrecorded archaeology within the site it is recommended that a condition is attached requiring a programme of archaeological works. A properly implemented programme of works will ensure that the site will not adversely affect any archaeological assets. Subject to the recommended condition the proposal will accord with policy BE1 Scheduled Monuments and National Designations.

### **Developer Obligations (IMP3)**

Policy IMP3 seeks contributions where development has a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity. Following assessment including consideration of the Council's adopted Supplementary Guidance: Developer Obligations, obligations have been sought in relation to a proposed extension to Kinloss Primary School, extension of Forres Health Centre, additional dental chairs, a reconfiguration of pharmacy outlets and a 3G pitch at Forres. The developer is aware of the obligations and it is recommended that this is dealt with by legal agreement in the event the application is approved.

### **Conclusion and Recommendation**

The proposal accords with policy. The impact on the natural environment has been fully assessed and appropriate mitigation is proposed. It has been demonstrated that the development can be sited, designed and serviced in a manner that is in keeping with the surrounding development but without any unacceptable or significant adverse impact on the amenity of the surrounding area.

Overall the proposal is acceptable and accords with policy. It is recommended that the application is approved subject to conditions.

**REASON(S) FOR DECISION**

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

**Author/Contact  
Officer:**

Lisa Macdonald  
Senior Planning Officer

**Ext:** 01343 563479

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



## **APPENDIX**

### **POLICY**

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

##### ***Moray Local Development Plan 2015 - Material Consideration***

#### **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 ED1: Development of New Employment Land**

The formation of new industrial estates, or business related development will require to satisfy the following requirements. Where appropriate, further details will be contained in site designation texts in settlement statements.

**Road Access:** Junctions with the public road and internal service roads should be built to Moray Council standards for adoption, and provision made for on site and off site parking. Layout proposals should provide for pedestrian and cycle links and provide options for linking with public transport services (eg by provision of bus stops/laybys/shelters as deemed appropriate).

**Drainage:** All foul drainage must connect to the public sewer, with surface water drainage incorporating appropriate sustainable urban drainage (SUDS).

**Landscaping:** Requirements for individual sites will be specified in more detail in the relevant settlement designation. Proposals should address issues such as screening;

noise barriers; treatment at boundaries/frontages; general visual appearance of the site. Details for maintenance arrangements will be required for landscaped areas.

**Design:** Where site frontages are highly visible (eg onto a main road, or town gateway site) a high standard of design for front elevations; layout of yard; storage areas; parking must be a consideration.

**Designing Out Crime:** New estates should be designed so that they provide deterrents to crime, by ensuring sufficient lighting, planting and boundary treatments. Consultation will be carried out with Police Scotland for new proposals. Examples of best practice will be provided to applicants at pre- application stage.

**Natural Environment:** Provision should be made to ensure appropriate protection and enhancement of the natural environment, and integration with natural heritage on adjacent lands.

**Waste Management:** Provision should be made for the collection, separation and management of waste materials.

## **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 E1: Natura 2000 Sites and National Nature Conservation Sites**

### **Natura 2000 designations**

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management 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 site may be approved where;

- a) there are no alternative solutions; and



- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if 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 either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

### **National designations**

Development proposals which will affect a National Park, Site of Special Scientific Interest (SSSI) or National Nature Reserves will only be permitted where:

- a) the objectives of designation and the overall integrity of the area will not be compromised; or
- b) 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.

### **Policy E2: Local Nature Conservation Sites and Biodiversity**

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

### **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 BE1: Scheduled Monuments and National Designations**

### **National Designations**

Development Proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

### **Local Designations**

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

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for the development, and
- c) Any adverse effects can be satisfactorily mitigated at the developers expense

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

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

## **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 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 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 ER2: Development in Woodlands**

### **All woodlands**

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

### **Protected Woodlands**

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

### **Tree surveys and new planting**

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

### **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 T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks**

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or

- provide alternative access that is no less attractive and is safe and convenient for the public to use.

### **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 IMP2: Development Impact Assessments**

The Council will require applicants to provide impact assessments in association with planning applications in the following circumstances:

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.
- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

### **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.

### **R2: Duneland**

This area extends to 2.85 hectares and has planning consent for residential use.

## **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.

## **BUSINESS & INDUSTRY**

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

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

b) **Business Parks.**

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

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

c) **Industrial Estates.**

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

d) **Existing Business Areas.**

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

e) **Other Uses.**

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

**f) Areas of Mixed Use.**

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

**g) Rural Businesses and Farm Diversification.**

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

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

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

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

**h) Inward Investment Sites.**

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

Proposals must comply with Policy DP1 and other relevant policies.

**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.

**EP2 BIODIVERSITY**

All development proposals must retain, protect and enhance features of biological interest and provide for their appropriate management. Developments must safeguard and connect into wildlife corridors, green/blue networks and prevent fragmentation of existing habitats.

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

Proposals for 4 or more housing units or 1000 m<sup>2</sup> or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

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

Where development results in the loss of natural habitats of ecological and amenity value, compensatory habitat creation will be required on an alternative site in Moray.

**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/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

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

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

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

- Safe and welcoming.
- Good levels of natural surveillance.
- Discourage anti-social 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.

## **EP8 HISTORIC ENVIRONMENT.**

### **a) Scheduled Monuments and National Designations.**

Where a proposed development potentially has a direct impact on a scheduled monument, the written consent of Historic Environment Scotland is required, in addition to any other necessary consents.

Development proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

### **b) Local Designations.**

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

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for development, and
- c) Any adverse effects can be satisfactorily mitigated at the developer's expense.

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

## **EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.**

### **a) Flooding.**

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

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

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

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

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

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

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

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

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

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

- Civil infrastructure and most vulnerable uses.
- Additional development in undeveloped and sparsely developed areas, unless

a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flows).

- New caravan and camping sites.

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

#### **b) Surface Water Drainage: Sustainable Urban Drainage Systems (SUSDS)**

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

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

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

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

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

#### **c) Water Environment**

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if

appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant), nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 104). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

### **EP13 FOUL DRAINAGE**

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

- Systems must not have an adverse effect on the water environment.



- Systems must be designed and built to a standard which will allow adoption by Scottish Water.
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

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

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

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

### **a) Pollution.**

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

### **b) Contamination.**

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

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

### **c) Hazardous sites.**

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

## **EP15 MOD SAFEGUARDING.**

Development proposals must not adversely impact upon Ministry of Defence safeguarding operations. Details of consultation zones for Kinloss Barracks and RAF Lossiemouth and development types which will be subject to consultation with the Defence Infrastructure

Organisations are available from Moray Council. The outer boundaries of the zones are shown on the Proposals Map.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON  
20 AUGUST 2019**

**SUBJECT: 19/00686/PAN - PHASED RE-MODEL AND RE-BUILD OF  
EXISTING DISTILLERY INCLUDING NEW EVAPORATOR BIO-  
PLANT BOILER HOUSE STILL HOUSE TUN ROOM AND MASH  
HOUSE NEW VISITORS PARKING/ACCESS AND ASSOCIATED  
LANDSCAPING AT ABERLOUR DISTILLERY**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,  
PLANNING AND INFRASTRUCTURE)**

## **1. REASON FOR REPORT**

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 5 June 2019 on behalf of Chivas Brothers Ltd, Aberlour Distillery, Aberlour.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

## **2. RECOMMENDATION**

### **2.1 It is recommended that:**

- (i) in noting the terms of this report, the Committee advise upon any provisional views/relevant issues that Members of this Committee (or any other Member(s) of the Council) wish to raise about the proposed development so that these matters can be recorded and thereafter fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

### 3. **BACKGROUND**

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-application stage which they would wish to see taken into account within any formal application for planning permission.
- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to applicant (paragraph 4 of the Minute refers).
- 3.3 This current report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 As described, this PAN relates to a proposal for a phased re-model and re-build of the existing distillery at Aberlour including a new evaporator bio-plant boiler house, still house, tun room and mash house and a new visitors parking area and improved access to site. The proposal also includes enhanced associated landscaping. The PAN includes a Location Plan (**Appendix 1**) which shows the location and extent of the proposed development.
- 3.5 The site extends to approximately 4.7 hectares and comprises the existing distillery complex, an area of open grassland to the east on the opposite side of the Burn of Aberlour which flows through the site and woodland to the south. It is irregular in shape, gently rises to the north where it meets the A95 trunk road and is bounded by housing to the east and woodland to the west and south. The site covers two designations in the Moray Local Development Plan 2015, the R1 Chivas Field housing designation (western portion, approximately 40%) and the entire I2 Aberlour/Glenlivet Distillery Area reserved for the use of the distillery and related business uses. The site is subject to an 'Existing Business Area' designation I2 Aberlour Distillery, in the Proposed Moray Local Development Plan 2020, which combines both the current R1 and I2 sites. This will not be subject to the Examination process.
- 3.6 The SEPA indicative flood map shows that parts of the site which include a section of the Burn of Aberlour and adjacent ground may be at medium to high flood risk of river and surface water flooding. This stretch of burn also forms part of the River Spey Special Area of Conservation (SAC), which joins into the River Spey SAC and SSSI 300m to the northwest. The woodland within the southern part of the site is included within the Ancient Woodland and National Forest Inventories.

- 3.7 Relative to the current Hierarchy Regulations and as general industrial development on a site which exceeds 2 hectares, the proposal would comprise a major development for planning purposes. As such, the proposal will be subject to PAN and pre-application consultation procedures with the local community. The applicant(s) have been advised of the Council's pre-application advice service to assist in identifying key issues and information that would be expected to accompany any formal application.
- 3.8 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community are sufficient. The applicant proposes to consult with Speyside Community Council and hold a public event in the form of a daytime/evening exhibition. In this case the applicant's agent has been advised that no additional parties require to be notified with a copy of the PAN.
- 3.9 The PAN advises that a public event will be held in the Fleming Hall Aberlour on the 14 August 2019. The event requires to be advertised locally in advance and to allow an opportunity for feedback upon the proposal. For validation purposes for a major application, the applicant is required to submit a pre-application consultation report setting out the steps taken to consult with the local community together with details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

#### **4. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Identifying key issues at an early stage to assist with front loading major planning applications is a vital aspect of supporting and facilitating the Council's priority for economic development in Moray.

**(b) Policy and Legal**

Scottish Government guidance on the role of councillors in pre-application procedures affords elected members the opportunity to offer general provisional views on forthcoming developments which are the subject of a PAN where the details of the development have yet to be finalised.

**(c) Financial implications**

None

**(d) Risk Implications**

None.

**(e) Staffing Implications**

None.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

None.

**(h) Consultations**

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, Legal Services Manager, Development Management and Building Standards Manager, the Equal Opportunities Officer, Strategic Planning & Delivery Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

Members of Moray Council who are not on the Planning & Regulatory Services Committee have also been consulted and any views received on the proposal will be made known at the meeting.

**5. CONCLUSION**

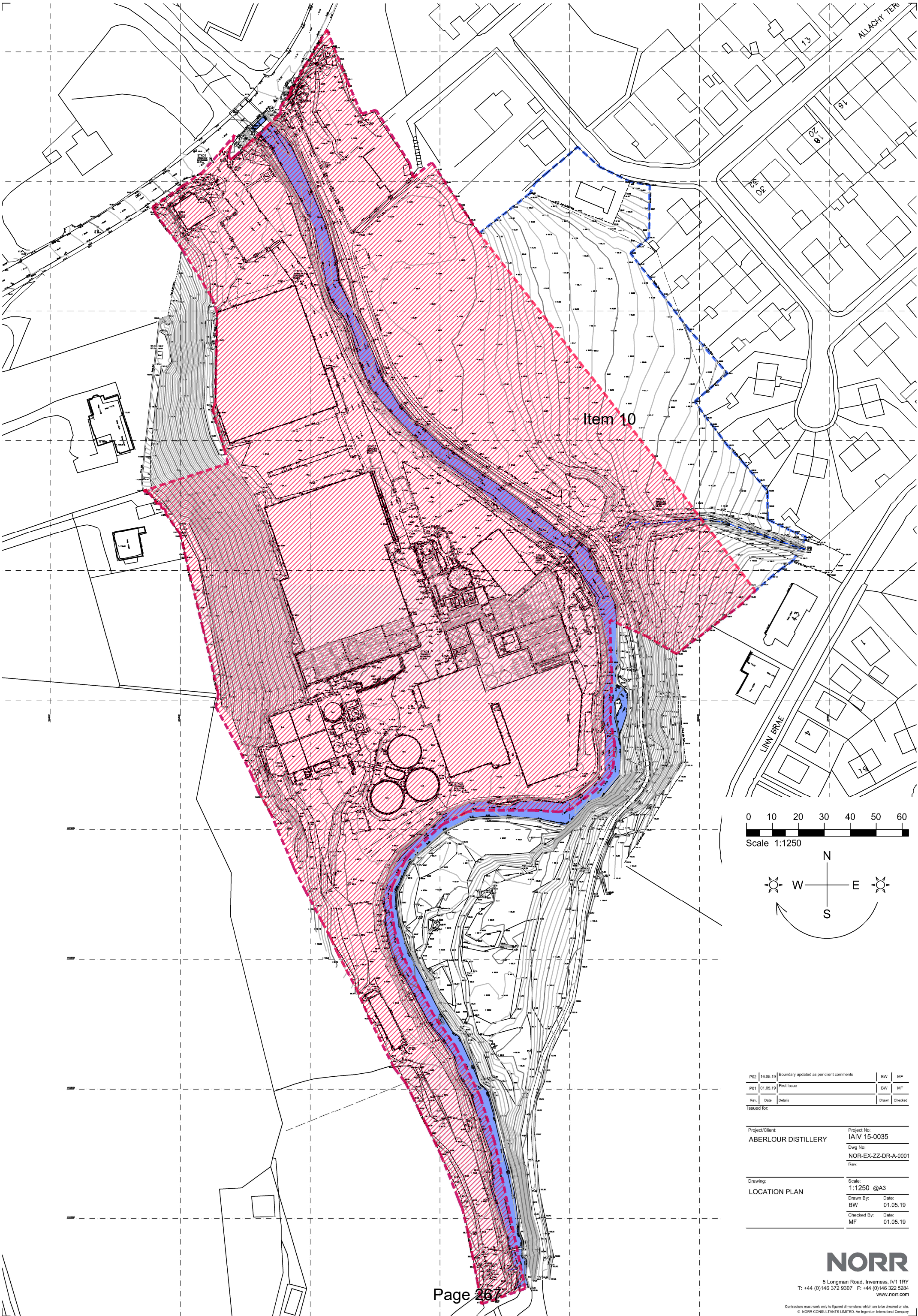
- 5.1 The Council has received a PAN intimating that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for a phased replacement of the Aberlour Distillery. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

Author of Report: Craig Wilson, Planning Officer

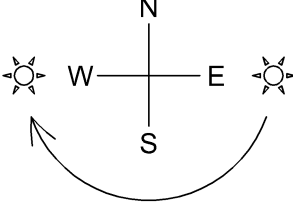
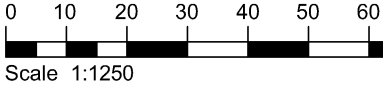
Background Papers:

Ref:





Item 10



P02	16.05.19	Boundary updated as per client comments	BW	MF
P01	01.05.19	First Issue	BW	MF
Rev.	Date	Details	Drawn	Checked
Issued for:				

Project/Client: ABERLOUR DISTILLERY  
Project No: IA/IV 15-0035  
Dwg No: NOR-EX-ZZ-DR-A-0001  
Rev:

Drawing: LOCATION PLAN  
Scale: 1:1250 @A3  
Drawn By: BW Date: 01.05.19  
Checked By: MF Date: 01.05.19









**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON  
20 AUGUST 2019**

**SUBJECT: 19/00783/PAN – PROPOSAL OF APPLICATION NOTICE FOR  
HOUSING DEVELOPMENT OF 75 UNITS AND  
NURSING/RETIREMENT HOME AT R1 AND LONG SITE,  
HOPEMAN, MORAY**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,  
PLANNING AND INFRASTRUCTURE)**

## **1. REASON FOR REPORT**

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 21 June 2018 on behalf of Tulloch of Cummingston Limited, Tulloch House, Forsyth Street, Hopeman.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

## **2. RECOMMENDATION**

### **2.1 It is recommended that:**

- (i) in noting the terms of this report, the Committee advise upon any provisional views/relevant issues that Members of this Committee (or any other Member(s) of the Council) wish to raise about the proposed development so that these matters can be recorded and thereafter fed back to the applicant in order to inform their proposed planning application; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

## **3. BACKGROUND**

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-

application stage which they would wish to see taken into account within any formal application for planning permission.

- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to applicant (paragraph 4 of the Minute refers).
- 3.3 This current report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 As described, this PAN relates to a proposal for a residential development of 75 houses and a nursing/retirement home on the Hopeman R1 Manse Road site and adjacent LONG site identified in the Moray Local Development Plan (MLDP) (2015). The PAN includes a Location Plan (**Appendix 1**) which shows the location and extent of the proposed development. A Site Plan (**Appendix 2**) has also been submitted showing a proposed layout of 48 units (comprising bungalows, houses and flats) and the nursing/retirement home on the R1 designation and a further 27 plots on an indicative layout on the adjacent LONG site to the north, along with landscaping, a play park and SUDs drainage. No house designs or a design for the nursing home have been provided at this stage. Additional information outlining the applicant's timeline for development of the site has been submitted.
- 3.5 The site extends to approximately 4.3 hectares (2.3ha for R1 and 2ha for the LONG) and comprises an area of rough ground and coastal foreshore (scrub and gorse) on the western edge of Hopeman. It is irregular in shape, gently falls to the north and is bounded by housing to the east and south, foreshore to the north and farmland to the west.
- 3.6 The Hopeman R1 designation in the MDLP 2015 identifies the site as being suitable for up to 25 houses within a 2.3 hectare site. (A further 30 houses are identified within the adjacent LONG site). The R1 designation highlights various matters that any future development proposal(s) will need to consider. These include preparation of a masterplan covering both the R1 and LONG sites, along with provision of connections into adjacent streets, footpaths and cycleways, a landscaped strip along the western edge of the site and requirement for buildings to present a frontage onto Manse Road. The designation also requires submission of a Transport Assessment, provision of vehicular link between the B9040 and Manse Road, a north-to-south link between the B9040 and the Coastal path to the north and east-to-west connections to Cooper Street, Duff Street and Manse Road. Further requirements include avoidance of ground clearance work during the breeding bird season, archaeological evaluation, provision of suitable surface

water/drainage arrangements (avoiding direct sea outfalls) which do not adversely impact the interests of the Moray Firth Special Area of Conservation to the north and a Landfill Gas Assessment. The site is subject to a housing designation R1 Manse Road (75 units), in the Proposed Moray Local Development Plan 2020, which combines both the current R1 and LONG sites, and will be subject to the Examination process.

- 3.7 Relative to the current Hierarchy Regulations and for residential development of 50 or more houses, on a site which exceeds 2 hectares, the proposal would comprise a major development for planning purposes. As such, the proposal will be subject to PAN and pre-application consultation procedures with the local community. The applicant has been advised of the Council's pre-application advice service to assist in identifying key issues and information that would be expected to accompany any formal application.
- 3.8 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community are sufficient. The applicant proposes to consult with the Hopeman Community Association. In this case the applicant's agent has been advised that no additional parties require to be notified with a copy of the PAN.
- 3.9 The PAN advises that a public event will be held at a venue with date and location to be confirmed. The event requires to be advertised locally in advance and to allow an opportunity for feedback upon the proposal. For validation purposes for a major application, the applicant is required to submit a pre-application consultation report setting out the steps taken to consult with the local community together with details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

#### **4. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Identifying key issues at an early stage to assist with front loading major planning applications is a vital aspect of supporting and facilitating the Council's priority for economic development in Moray.

**(b) Policy and Legal**

Scottish Government guidance on the role of councillors in pre-application procedures affords elected members the opportunity to offer general provisional views on forthcoming developments which are the subject of a PAN where the details of the development have yet to be finalised.

**(c) Financial implications**

None.

**(d) Risk Implications**

None.

**(e) Staffing Implications**

None.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

None.

**(h) Consultations**

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, Legal Services Manager (Property and Contracts), Development Management and Building Standards Manager, the Equal Opportunities Officer, Strategic Planning & Delivery Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

Members of Moray Council who are not on the Planning & Regulatory Services Committee have also been consulted and any views received on the proposal will be made known at the meeting.

**5. CONCLUSION**

- 5.1 The Council has received a PAN intimating that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for the proposed housing development of 75 units and nursing/retirement home on the Hopeman R1 and LONG Sites. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

Author of Report: Richard Smith, Principal Planning Officer

Background Papers:

Ref:

HOPEMAN



21 JUN 2019

# MANSE road

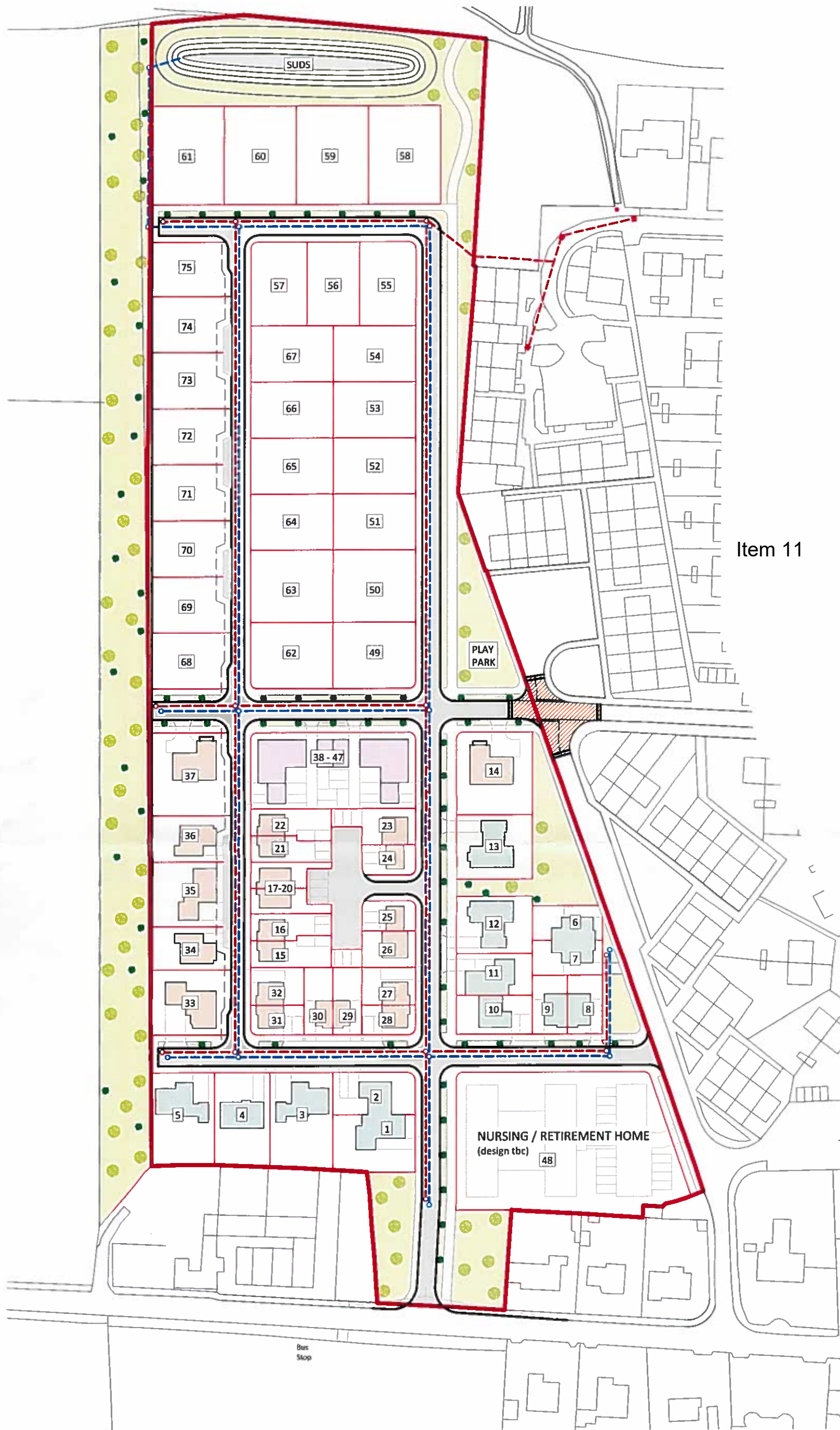
LOCATION PLAN  
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JUNE 2019









- BUNGALOWS
- HOUSES
- FLATS
- OPEN SPACE

Item 11

21 JUN 2019

21 JUN 2019

MANSE road

SITE PLAN  
1:1250

JUNE 2019

