

19/01567/APP

10th December 2019

Phased remodel and rebuild of existing distillery including new evaporator bio plant boiler house still house tun room mash room new visitor parking with access bridge and associated landscaping at Aberlour Distillery Aberlour Moray AB38 9PJ for Chivas Brothers Ltd

Comments:

- Application is major development as defined under the Hierarchy Regulations 2009 for a general industrial development on a site which exceeds 2ha.
- Advertised for neighbour notification purposes and Schedule 3.
- 3 Objections/representations received.

Procedure:

None

Recommendation: Grant Planning Permission - Subject to the Following:-

1. Adoption of “appropriate assessment” (Appendix 2) prior to issue; and
2. the following conditions

Conditions/Reasons:

1. Prior to the commencement of works on site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The Construction Traffic Management Plan shall include details relating to:
 - a) Traffic Management measures including accommodation works to manage construction traffic;
 - b) Measures to minimise traffic impacts on existing road users;
 - c) Measures to accommodate pedestrians and cyclists;
 - d) Details of temporary signage and
 - e) Details of construction vehicle routing.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

2. Prior to the commencement of any deliveries to site, the proposed route for any abnormal loads on the trunk road network must be approved by the Council, as Planning Authority in consultation with Transport Scotland prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved and undertaken by a recognised QA traffic management consultant, also to be approved by the Council as Planning Authority in consultation with Transport Scotland before deliveries commence.

Reason: To ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

3. Prior to development commencing and first use of the proposed temporary access on the A95 trunk road, as shown in Blyth & Blyth Drawing No. EC21778:95-005, this access shall be constructed to a layout and type (and method) of construction to be approved by the Planning Authority, after consultation with Transport Scotland.

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

4. On completion of the construction of the proposed new road bridge and visitor car park, the temporary access onto the A95, as referred to in Condition 3 above, shall be permanently closed and the A95 trunk road reinstated in accordance with a restoration scheme which has been agreed by the Council, as Planning Authority, in consultation with Transport Scotland. This shall include re-instatement of all land affected by the temporary access road.

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

5. Vehicle wheel washing facilities shall be installed and brought into operation on the site, the design and siting of which shall be subject to the prior approval of the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

6. No works shall commence on any phase of the development until a Construction Traffic Management Plan for that specific phase of the development has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- duration of works;

- construction programme;
- number of vehicle movements
- anticipated schedule for delivery of materials and plant;
- full details of any temporary construction access;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

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.

7. No works in connection with the development hereby approved shall commence unless a Level 1 archaeological standing building survey of the extant buildings and structures on the application site has been undertaken and has been submitted to and approved in writing by the planning authority. The standing building survey shall not be undertaken unless its scope has been approved in writing by the planning authority. The survey must be in a digital format and must be clearly marked with the planning reference number.

Reason: To ensure that a historic record of the building is made for inclusion in the National Record of the Historic Environment and in the local Historic Environment Record.

8. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Friday and 0800 – 1600 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working

Reason: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the construction of the development

9. Prior to development commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager and SEPA. The plan shall include measures to minimise construction related noise, dust and artificial lighting along with measures to prevent pollution of surrounding environment arising from the construction of distillery. This shall be submitted at

least 2 months prior to commencement of any works on site. Thereafter the development will be carried out in accordance with the agreed plan.

Reason: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the construction of the development and to ensure the construction works do not pollute surrounding water courses.

10. Any noise egress point (ie exhaust terminals or louvres) from the Evaporator Building should be attenuated so as to achieve an equivalent continuous sound pressure level L A eq of 50 dB at 3m from the façade.

Reason: To protect the amenity of surrounding residential properties from the effects of noise associated with the operation of the development

11. The exhaust terminals or louvres to be installed on the Evaporator Building shall face south.

Reason: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the operation of the development

12. Unless otherwise agreed in writing with the Planning Authority, all louvres in the Evaporator Building and Still House shall be fitted with 300mm deep double bank chevron configuration acoustic louvres as described in Appendix 5 of the noise impact assessment supporting document by Robin Mackenzie Partnership, dated 10th December 2019, Report No. R -8573-RRM and titled "Noise Impact Assessment : Aberlour Distillery , Charlestown, Banffshire, AB 38 9PJ".

Reason: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the construction of the development.

13. All external motors/pumps within 90 metres from the dwelling boundaries with direct line of sight, including the Spirit Tank Pumphouse, shall be located internally with attenuated louvred doors.

Reason: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the operation of the development

14. The Still House louvres shall be positioned to ensure they face either north or south.

Reason: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the construction of the development

15. The mitigation measures in conditions 8 to 14 inclusive arise from that identified throughout Section 6 of the noise impact assessment supporting document by Robin Mackenzie Partnership, dated 10 December 2019, Report No. R -8573-RRM and titled "Noise Impact Assessment: Aberlour Distillery, Charlestown, Banffshire, AB 38 9PJ" and shall be implemented to ensure that the rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB. 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: To protect the amenity of surrounding residential properties from the harmful effects of noise associated with the operation of the development.

16. The recommended mitigation and compensation measures regarding the protection and enhancement of protected species and habitat for the site (including the timescales for their implementation) as detailed within the accompanying Ecological Impact Assessment on behalf of Aberlour Distillery (Chivas Brothers Ltd) by Blythe & Blythe (in collaboration with Ecos Countryside Services LLP) dated 6 December 2019 and Bat Survey Report by Black Hill Ecology Ltd shall be strictly adhered to by the developer, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with Scottish Natural Heritage. These measures shall include the submission and approval pre-construction surveys and mitigation (species protection plans, where required) in relation to otters, red squirrel and badgers as recommended in the aforementioned Ecological Assessment.

Reason: To ensure the adequate protection and enhancement of ecological features of the River Spey SAC and the interests of the protected species within it.

17. Unless otherwise agreed in writing with the Council as Planning Authority the waste water drainage from the site will be connected to the public sewer.

Reason: In order to prevent any prevent any pollution impacts on the water environment

- 18: No dewatering in connection with the construction of the proposed development shall occur and foundations for the water tanks shall not be in excess of 90.10Maod unless otherwise agreed by the Planning Authority in consultation with SEPA.

Reason: In order to prevent any significant impacts on groundwater.

19. No tree felling shall commence on site until a woodland planting scheme to compensate for the removal of woodland from the site has been submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Forestry. The replanting scheme must comply with the

requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers. The scheme submitted for approval must include:-

- a) details of the location of the area to be planted as indicated in the submitted landscape plan No. ZZ-DR-A-00900 P03.
- b) the nature, design and specification of the proposed woodland to be planted (to be mixed native species, at minimum stock density of 1600 trees per hectare);
- c) the phasing and associated timescales for implementing the Replanting Scheme;
- d) proposals for the maintenance and establishment of the Replanting Scheme, including; annual checks; replacement planting; fencing; ground preparation; and drainage etc; and
- e) proposals for reporting to Moray Council on compliance with timescales for obtaining the Necessary Consents and thereafter implementation of the Replanting Scheme (to be carried out by a suitably qualified person(s) with relevant forestry qualifications, technical abilities and experience e.g. chartered forester).

The approved Replanting Scheme shall thereafter be implemented in full and in accordance with the phasing and timescales set out therein, unless otherwise agreed in writing by the Planning Authority in consultation with Scottish Forestry.

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

20. That all tree works and tree protection measures on the development site shall be carried out in accordance with those detailed in the submitted Tree Protection Plan by SCOTTISH ARBORICULTURAL SERVICES dated 24 August 2020, unless otherwise agreed in writing with this Council as Planning Authority. No trees, shrubs or hedgerows on the site other than those identified in the abovementioned Protection Plan shall be removed without the prior written consent of the Council, as Planning Authority.

Reason: In order to protect trees and shrubs within the site.

21. The mitigation and enhancement measures as recommended in the submitted Site Biodiversity Action Plan prepared by ECOS COUNTRYSIDE SERVICES LLP dated 24 August 2020 (see Table 9.0, pages 17 - 19), shall be fully implemented by the developer, unless otherwise agreed in writing with this Council as Planning Authority.

Reason: In order to protect and enhance biodiversity interests on the site.

22. No development shall commence until details of the proposed Electric Vehicle Charge Point (as shown on Drawing ZZ-DR-A-00113 Rev K) have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. Details shall confirm the provision of a charging unit within a minimum output of not less than 22Kw (Rapid).

Thereafter, unless otherwise agreed by the Planning Authority in consultation with the Roads Authority, the proposed Electric Vehicle (EV) charging unit must be provided and operational prior to the car park opening to visitors.

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

23. The surface water drainage SUDS arrangements detailed in the approved drawings, Drainage Impact Assessment prepared by Blyth and Blyth dated 29 Nov 2019 and Flood Risk Assessment prepared by Royal Haskoning DHV dated 16 December 2019 shall be installed prior to first occupation of the development or completion of building works whichever is sooner, unless otherwise agreed.

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

24. No development shall commence until details of the temporary closure and diversion arrangements of the section of Core Path CP-SP25 affected by the proposal shall be submitted to and approved in writing by the Council as Planning Authority. Thereafter the development will be carried out in accordance with these agreed details.

Reason: To protect access rights in the affected area during construction works.

25. No development shall commence until detailed specifications of all material finishes to the buildings on the development have been submitted to and approved in writing by the Council as Planning Authority. Thereafter the development will be carried out in accordance with these agreed details.

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

26. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding details of an external lighting scheme for the development. The required scheme shall:

- a) be designed to minimise the use of external lighting within and around the boundaries of the site, and the effects of light spills and glare upon the surrounding area beyond the site boundary; and
- b) provide details of all required/proposed external lighting arrangements, whether free-standing or affixed to buildings/structures or similar during both the construction and operation of the development (which, for the latter, shall include low level lighting to light internal work spaces between buildings rather than around the exterior of the building/the site); and
- c) include the location and design specifications (including both candela and lux rating information) for all lighting to be installed and the time- periods for

operation together with specifications for all mitigation measures to be introduced and designed to minimise the impact of lighting within and beyond the site boundary (for example, light hoods and louvres, orientation and angle of downward inclination of lamps, self dimming lights, etc.)

Thereafter, the external lighting arrangements shall be implemented in accordance with the approved details and no further external lighting shall be provided, installed or used throughout the lifetime of the development except where otherwise agreed in writing with the Council, as Planning Authority.

Reason: Details of the matters specified are lacking from the applicant's submission and to ensure an acceptable form of development in particular to minimise the potential for light pollution disturbance upon the visual amenity of the surrounding area and nearby residential properties.

27. No development shall commence until detailed drawings of the road and foot bridge(s) and associated bank works have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA and Flood Risk Management. These details shall be in line those modelled in the accompanying Flood Risk Assessment prepared by Royal Haskoning DHV dated 16 December 2019. Thereafter the development will be carried out in accordance with these agreed details

Reason: Details of the matters specified are lacking from the applicant's submission and to ensure an acceptable form of development which does not increase flood risk.

28. No development shall commence until a revised landscape scheme has been submitted to and approved in writing by the Council, Planning Authority. This shall be closely based on the Landscape Plan drawing number ZZ-DR-A-00900 P03 and include the following additional information:-

- 1) details of additional tree/hedge planting (including species, positions and height) along the eastern edge of the visitor car park;
- 2) details including species, positions, spacing and height of all new planting; and
- 3) maintenance arrangements for all new planting on the site for the lifetime of the development.

Thereafter the development will be carried out in accordance with these agreed details.

Reason: To ensure that the car parking integrates sensitively with its surroundings and to enhance biodiversity value of this part of the site and as details regarding planting specifications and maintenance are lacking from the application.

29. The timescale for provision of the visitor car park shall be in accordance with the Proposed Phasing Plan drawing number EC21778.05:001 Rev D.

Reason: To ensure timeous provision of infrastructure in accordance with the phasing plan and an acceptable form of development.

Reason(s) for Decision

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

The proposal accords 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 contact the Building Standards Duty Officer between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail buildingstandards@moray.gov.uk

THE ABERDEENSHIRE ARCHEOLOGY SERVICE, has commented that:

Level 1 Standing Building Survey: A full photographic survey of the interior and exterior of the building, including all exterior elevations and the building's setting, with the addition of measured floor plans and elevations and a written account of the building's plan, form, function, age and development sequence. Surveys must be submitted in a digital format. A more detailed specification of the survey can be obtained from the Council's Archaeology Service.

THE ENVIRONMENTAL HEALTH MANAGER, has commented that:-

Odour

Odour emissions from the proposed bio-plant shall be suitably controlled so as not to give rise to a Statutory Nuisance in terms of the Environmental Protection Act 1990.

Artificial Lighting

Artificial light emissions from the proposed development shall be suitably controlled so as not to give rise to a Statutory Nuisance in terms of the Environmental Protection Act 1990

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 round 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

MORAY COUNCIL TRANSPORTATION SECTION, has commented that:-

Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority. -

SCOTTISH WATER, has commented that:

See consultation response dated 20 December 2019.

SEPA, has commented that:

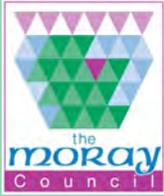
See consultation responses dated 16 April 2020 and 3 April 2020.

SNH, has commented that:

See consultation response dated 27 January 2020.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

Reference No. Version No.	Title/Description
	Tree protection plan
EC21778:93:003 A	Cut and fill information
EC21778:93:002 A	Proposed site level information
ZZ-DR-A-00900 P03	Landscape plan
ABL-NOR-ZZ-ZZ-DR-A-00201 p01	Site master plan - roof plan
ZZ-DR-A-00114 P03	Location plan
EC21778_52_020 A	Proposed car park drainage layout
ZZ-DR-A-00112 H	Proposed distillery floor plan
ZZ-DR-A-00102 P02	Proposed elevations A B C D
ZZ-DR-A-00101 P02	Proposed elevations E F G H J
EC21778:05:001 D	Proposed phasing plan
EC21778:52:003 A	Proposed site drainage layout
ZZ-DR-A-00113 L	Proposed site plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

19/01567/APP

Site Address:

Aberlour Distillery

Aberlour

Applicant Name:

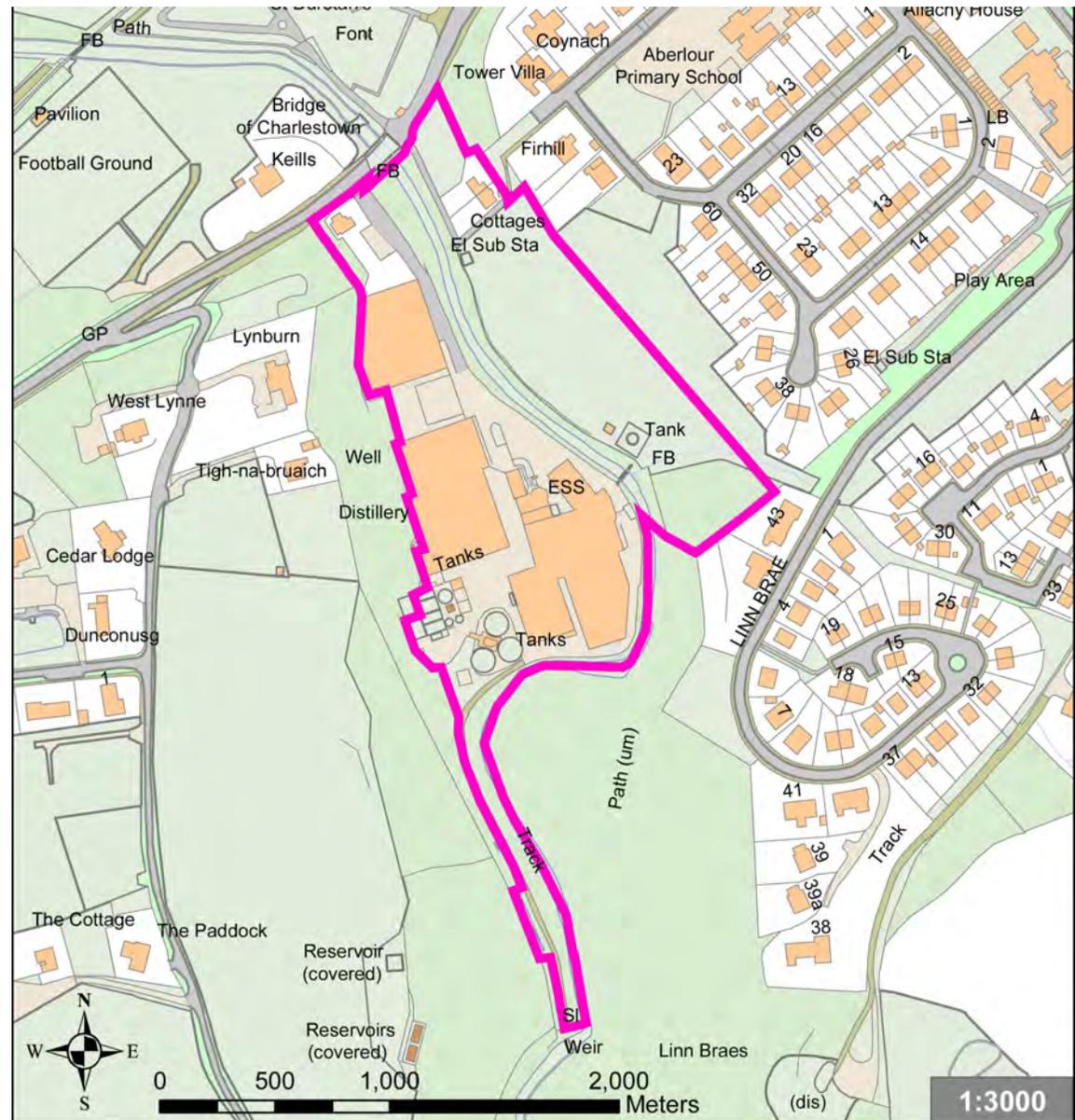
Chivas Brothers Ltd

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Location Plan



Site Location

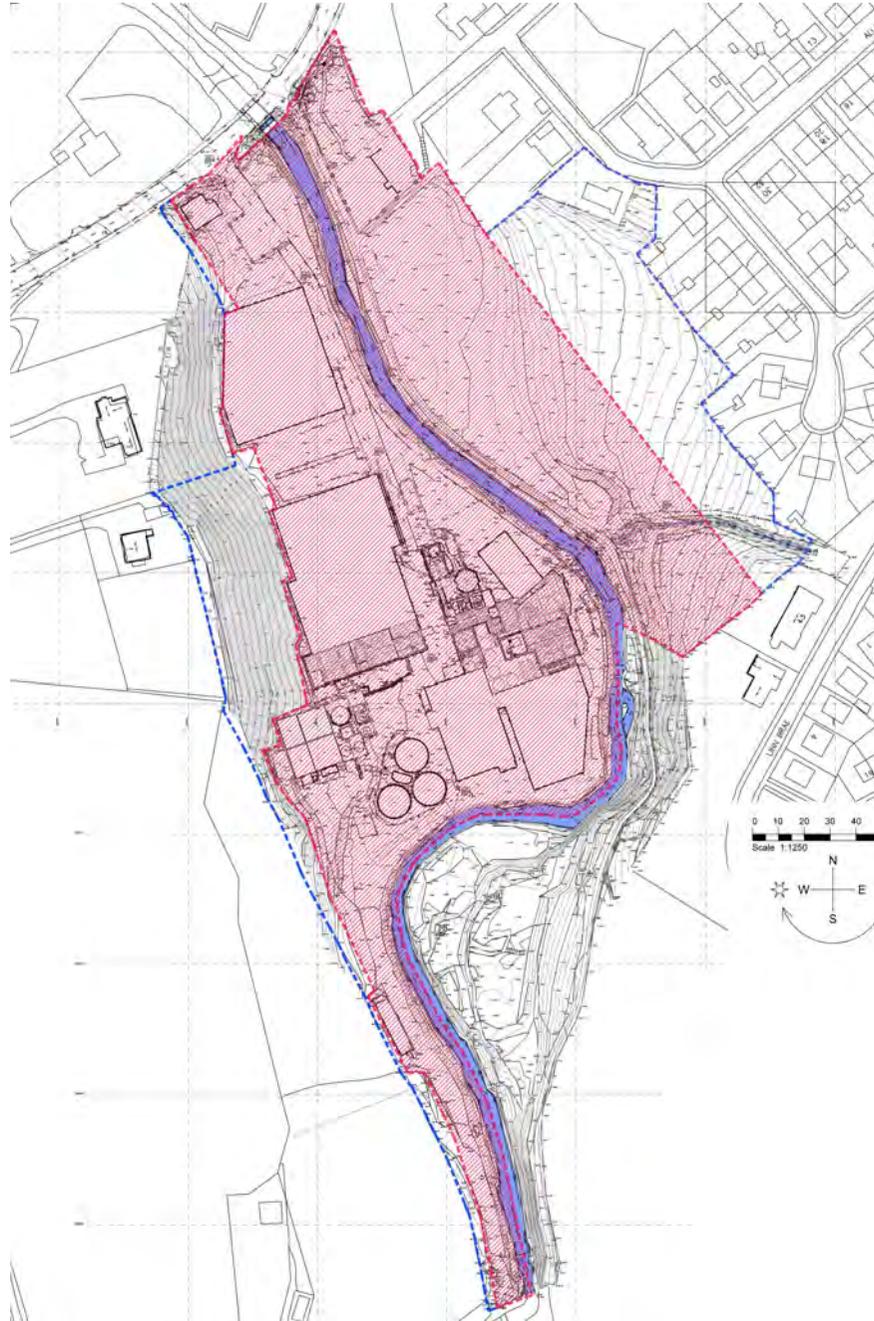


Photo location plan



Map Description: a Description of a Moray Council Map

Scale: 1:3,385 @ A4



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



PLANNING APPLICATION: 19/01567/APP

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

THE PROPOSAL

- This application seeks permission for the phased remodelling and rebuilding of the existing distillery including new evaporator, bio plant, boiler house, still house, tun room, mash room and new visitor parking with access bridge and landscaping at Aberlour Distillery, Aberlour.
- Associated works include demolition of an existing ancillary warehouse building and reworking of ground levels.
- The proposal will relocate the still house and tun room into a new build still house and the latter into the shell of the original malt floor.
- To ensure a sustainable waste-water process as part of the development the proposals include the renewing of the bio plant treatment facilities with update technology. The proposals will use existing processing capacity to supply pot ale syrup and draff to the local agricultural sector.
- Existing buildings will have the modern dry dash render stripped/removed from the walls, and stone work will be repaired. . New buildings will be a mix of profiled metal cladding and roofing (colour anthracite grey), curtain walling and timber cladding (a mix of clear and anthracite stain). Windows will generally be timber framed with an opaque stain finish. Rendered walls will have a traditional wet dash finish (colour white). Existing slate roofs will be retained and the still house will have a natural slate roof as well (utilising salvaged slate from the site where possible).
- The new buildings will range in height from 6.3m to 17.34m high, and replacement chimney stack 19m in height.
- The proposed development will separate visitor routes from the service routes to create a high quality visitor experience. Visitor parking will be provided in open grassland area opposite distillery with improved access path provided linked into existing core path along the Lour Burn and new timber pedestrian bridge to the distillery.
- Vehicles will access the new car park via a new bridge across the Lour Burn. The car park will be enclosed to the slope side with a traditional field hedgerow of Hawthorn broken up with informal groupings of trees (indigenous species to match the tree species in the adjacent woodland). The parking area will be broken up with further planting and parking bays will be a mix of reinforced grass and whin dust with a blacktop carriageway. Provision has been made for electric vehicle charging for 2 vehicles within the parking area.
- Tree removal has been identified within a supporting a Tree Survey/Protection Plan and compensatory planting within a landscape plan. Biodiversity proposals include protection of existing riparian woodland and wetland areas from construction processes, replant native species trees, shrubs, grass and further habitat creation through planting of hawthorn hedgerows.
- Proposals will also seek to minimise impacts on protected species in line with Ecology Assessment recommendations.

- The existing former cottage to the A95 end of the field will continue to be maintained as wind and water tight until Chivas decide on its long term use.
- The following supporting documents have also been provided; Design and Access Statement, Ecology Impact Assessment, Noise Impact Assessment, Transport Statement, Flood Risk Assessment, Drainage Planning Statement and Tree Survey/Protection Plan and Site Biodiversity Action Plan.
- The proposal has been screened against the EIA regulations and the EIA screening opinion has identified that it is not EIA development.
- Following amendments to the red line boundary ancient woodland to the south of the site no longer forms part of the application site.

THE SITE

- The Aberlour Distillery site extends to approximately 4 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.
- The site 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 (National Forest Inventory) and south (Ancient Woodland).
- The site forms part of an 'Existing Business Area' designation I2 Aberlour Distillery, in the Proposed Moray Local Development Plan 2020.
- 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.
- A core path (CP-SP25) runs through the site along the burn.

HISTORY

19/00456/PEMAJ – Major preliminary enquiry submitted for the phased remodel and rebuild of existing distillery including new evaporator bio plant boiler house still house tun room and mash room new visitors parking with access bridge and associated landscaping Aberlour Distillery Aberlour.

19/00686/PAN – Proposal of Application Notice submitted for the phased re-model and rebuild 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, Aberlour. At committee the following concerns were raised and passed onto the applicant a) parking associated with the current core path within and beyond the site; noise issues; b) proximity to housing; c) ancient woodland; and d) flooding.

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

Advertised for neighbour notification purposes and Schedule 3 advertisement.

CONSULTATIONS

Strategic Planning and Development – The proposal incorporates high design standards and responds to the setting and characteristics of the site. In principle the development is supported subject to additional information being submitted in relation to compensatory planting and maintenance of the remaining open field beyond the car parking area and measures for enhancing natural habitats and ecological and amenity value of the site.

Transportation – No objection subject to condition requiring submission and approval of a Construction Traffic management Plan. A nominal increase in visitor numbers is anticipated. The proposed increase in visitor car parking from 21 to 34 space (plus additional campervan spaces) is considered acceptable. Access is via an existing access onto the A95 Trunk Road.

Transport Scotland – No objection subject to conditions regarding submission of CTMP, access arrangements and deliveries.

Scottish Water – No objection subject to advisory comments regarding water and foul capacity within the network and requirement for separate application to Scottish Water via the Pre-Development Enquiry (PDE) process.

Moray Flood Risk Management – No objection to proposed development following submission of further drainage information confirming that the geo cell solution was the only solution available as there is insufficient space for a suds pond in the part of the site in question and given the site levels and topography.

Aberdeenshire Archaeology Service – No objection. With its origins in the 19th Century, the Aberlour Distillery is included as a historic site in the Moray Historic Environment Record (site number NJ24SE0033). Should the application be minded for approval, we would ask that a level 1 standing building survey condition is applied (applicable to all buildings which will be affected by the proposed development).

SEPA – No objection subject to conditions regarding submission of a CEMP to control the environmental impact of development in terms of pollution associated with the construction phase of the development, confirmation that waste water drainage is connected to a public sewer and no de-watering in connection with construction of proposed development, and that the foundations for the water tanks should not be in excess of 90.10mAOD.

Speyside Community Council: No objection.

Developer Obligations - No developer obligations will be sought for the above planning application in this instance.

Moray Access Manager – No objection.

Environmental Health – No objection subject to conditions regarding submission of CEMP and noise attention measures; relevant informative notes on working practices and odours.

Scottish Natural Heritage - No objection subject to a condition requiring compliance with the recommended mitigation and compensation measures on the protection and enhancement of protected species for the site (including the timescales for their implementation as detailed) contained within the accompanying Ecological Impact Assessment.

OBJECTIONS-REPRESENTATIONS

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

[REDACTED]

[REDACTED]

[REDACTED]

Objections:

Issue: The proposal doubles the distillery capacity and the stillhouse is to be placed slightly closer to our home and closer to houses at Linn Brae. This doubling of capacity and placing of the stillhouse has the likely potential to increase noise, distilleries run 24/7 and this proposal has the potential to affect many people who will be living under constant noise.

Comment (PO): A Noise Impact Assessment has been submitted with the application which has informed consideration. Noise associated with the operation of the new distillery has been assessed by the Environmental Health Section which has not objected to the proposed development subject to conditions regarding installation of noise attenuation measures and a Construction Environmental Management Plan (CEMP) to minimise construction related noise. These along with the separation distances to nearby noise receptors are considered sufficient to protect residential amenity from the harmful effects of noise.

Issue: 53 documents to be read over a holiday period when many people including myself are off on holiday and with the website being off line on 1/2 January could be interpreted to nullify comment rather than seek it.

Comment (PO): The timing of submission of a planning application is outwith the control of the Council as Planning Authority. Opportunities to comment on the proposal were available through the requisite neighbour notification period and an opportunity was also available at a public event held in advance of submission.

Issue: I believe that part of the land indicated is not actually owned by Chivas; the area to the south of the ditch and fronting nos 42 and 43 Linn Brae, is, or was owned by Moray Council and contains a gas main.

Comment (PO): The applicant (Chivas) has signed the Land Ownership Certificate confirming they are the sole owners of the land. The agent for the applicant has also

confirmed that all land within the application area is owned by Chivas including the site of the gas governor.

Issue:

- Doubling of the capacity of a hazardous industrial unit so close to residential properties surely requires a H&S Risk Assessment similar as to that required by sites which fall under the COMAH regulations, because of proximity and enabling vectors for fire spread.
- The total amount of spirit capable of being held on site should have a 3D heat contour attached in case of fire and if that affected the surrounding trees enabling the fire to spread to local domestic properties, the development should not be allowed.
- Not against the expansion of the facility per se, merely that it is done in a safe and professional manner; the very low lying nature of the site surrounded by foresting providing a fire spread vector to domestic properties make the current land too risky to the public.

Comment (PO):

- With regard to concerns relating to the potential for fire, the site is not and will not become a COMAH site, as confirmed by the applicant. In terms of fire risk the development will reduce the risk as the quantity of spirit stored on site will be reduced as one of the warehouses is being demolished. That only leaves one warehouse at the entrance gate containing spirit. HSE has been consulted and has not advised against the granting planning permission. The applicant has confirmed that whisky storage on site will not exceed 5000 tons and on this basis the proposal would not require hazardous substance consent.
- Whilst the production capacity of the distillery is increasing the spirit stored on site will reduce in line with comments above. The expansion is contained within the industrial complex of buildings and designation covering the site. New development in the field opposite is limited to visitor car parking. The expansion and its integration with surrounding land uses will be controlled by condition to ensure the amenity and safety of nearby receptors. The development is confined within the existing distillery site and poses no greater fire risk than at present. All relevant health and safety practices during and after construction would be expected to be followed.

Issue: The glass front of the still house, in case of explosion should not face those self same trees but face inwards to the site.

Comment (PO): This is not a material planning consideration. Glass fronted still houses are comparatively common in modern still houses and will require to comply with all relevant legislation and relevant building regulations to prevent fire spread.

Issue:

- Queries whether the biomass boiler will be wood fired and thus any wood storage should be aggregated into a major fire scenario heat contour.
- It may be seen in certain weather conditions that the vapour from this stack does not disperse but hangs low in the valley. Given that woodsmoke is carcinogenic and the vapour can lie over two schools and a hospital, the use of a wood fired boiler should be precluded unless suitable scrubbers are designed into the exhaust.

Comment (PO): The application does not include proposals for installation of a biomass

boiler on site and the agent has confirmed that heat will be produced by gas boiler system.

Issue: Please ensure that full protection is given to all wildlife, flora and fauna. In particular moles and eels.

Comment (PO): The site is within an operational industrial complex. The application has been supported accompanying ecology and habit reports, this information has been reviewed by SNH which has not objected subject to conditions. In addition a small area of established planting will be lost to accommodate the development but additional landscaping is proposed. This will have biodiversity benefits for the site in accordance with the MLDP 2020.

OBSERVATIONS

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

The main issues are considered below

I2 Aberlour Distillery and Settlement Boundary (Policy EP6)

The proposed development site is located within I2 Aberlour Distillery designation of the approved 2020 Plan, which reserves the site for the use of the distillery and related business uses, including tourism. All required information has been submitted to the satisfaction of respective consultees, subject to relevant conditions. Given the nature of the proposed uses, improved infrastructure relating to the operation and redevelopment of his established distillery and introduction of enhanced tourist related opportunities the proposal is considered to comply with Policy I2.

The boundary of the site extends southwards towards the intake for the distillery. This southern section falls outwith the Aberlour Settlement Boundary. Policy EP6 of the MLDP 2020 states that development proposals immediately outwith the boundaries will not be acceptable unless the proposal is a designated 'LONG' site. However, the area is only used to access the water intake and as no development is proposed there is no departure to this policy.

The proposal complies with the above policy provisions.

Sustainable Economic Growth and Business & Industry (Policies PP2 and DP5)

Moray Local Development Plan 2020 Policies Sustainable Economic Growth and Business & Industry (Policies PP2 and DP5) support the Moray Economic Strategy and delivery of sustainable economic growth whilst seeking to ensure the site is used primarily for the role that it was intended. The proposal involving the redevelopment and renewal of this long established distillery complex will contribute towards sustainable economic growth by investing in an indigenous industry and supporting employment through the ongoing operation of the site and during the phased construction programme. As such the proposal complies with policies PP2 and DP5.

Siting/Design and Special Landscape Area [SLA] (DP1 and EP3)

Policy DP1 Development Principles, sets out detailed criteria to ensure development proposals satisfy siting, design and servicing requirements.

The site lies within the Spey Valley Special Landscape Area (SLA). SLAs have been identified within rural and urban areas to protect and enhance the special character and qualities of Moray's most valued landscapes as well as promoting a greater understanding of them. To this end policy EP3 contains heightened criteria which proposals are required to meet in terms siting and design and compliance with DP1 and designation requirements, to minimise adverse effects on the landscape and visual qualities of the area.

A Design and Access Statement has been provided which explains the design and access rationale behind the proposal. The proposal incorporates high design standards and responds to the setting and characteristics of the site, an established distillery complex with a heavy woodland backdrop. The retention of existing slate roofs and the further introduction of slate on the still house roof, along with timber framed windows, is welcomed and will contribute to the character and distinctiveness of the site. The use of profiled grey metal cladding, timber louvres and curtain wall glazing introduces a contemporary aspect to the distillery which is complementary to the traditional features.

The proposal introduces a high quality public realm with the reinstatement of the former lade promoted as a feature. This will create a distinctive and welcoming entrance to visitors as they cross over the Burn of Aberlour from the car park into the distillery complex. Proposed landscaping to the car park and compensatory planting to offset for woodland lost to form the access road bridge and construction access would further assist to integrate the development onto this part of the settlement and the wider landscape.

With the above considerations in mind the proposed redevelopment of this established distillery would result in a proposal that would relate well to its surroundings and the wider landscape, and satisfy the siting/design requirements of policy DP1 and the heightened requirements of EP3.

Forestry, Woodlands and Trees (EP7)

Policy EP7 Forestry Woodlands and Trees aim to give protection to trees and woodland from development.

Native woodland follows the Burn of Aberlour through the site and proposals to form the proposed road bridge will impact part of this woodland. The proposal to form the temporary access onto the A95 will also affect 3 trees.

A tree survey/tree protection plan and accompanying landscape plan have been submitted which detail this removal, protection measures and suggested compensatory planting. This retention and replacement of trees will be covered by condition.

Compensatory native woodland planting of pedunculate oak is proposed to compensate for the loss of 21 burn side trees (0.0415ha). The tree survey/protection plan also provides British Standard compliant protection for retained trees and their root plates. Further

compensatory planting for the Burn of Aberlour crossing includes 2 new hawthorn hedgerows, 149m and 28m in length. Along the site frontage, 1 ash and 2 sycamore trees are to be removed to allow temporary access from the A95/High Street into the site. The Ash tree is to be replaced by a pedunculate oak due to prevalence of Ash-die Back Disease.

Subject to conditions requiring adherence to the Tree Survey/Protection Plan, submission of a Compensatory Planting Plan and implementation of the submitted landscape plan the proposal complies with Policy EP7.

Infrastructure and Services (Policy PP3, DP1, EP12 and EP13)

Policy PP3 Infrastructure & Services seeks to ensure development is planned and co-ordinated with infrastructure to enable places to function properly and is adequately serviced.

Policy DP1 & EP12 Development Principles, sets out detailed criteria to ensure proposals meet siting, design and servicing requirements including provision of SUDS Policy EP13 Seeks to ensure that new development connects to the mains sewer system whenever possible.

The site is in an area known to be at risk of surface water flooding. A drainage assessment has been provided which assesses the risk and seeks to address it. In order to meet the requirements of policies PP3, DP1 and EP12 proposed surface water drainage arrangements include provision of on-site attenuation measures i.e. filter trenches and storm water drainage etc. designed and sized to ensure that all surface water is discharged onsite via geo cell containment. A geo cell solution is the only solution available as there is insufficient space for a suds pond within the site given the site levels and topography and undeveloped land available. These proposals have been assessed by the Flood Risk Management section and confirmed as acceptable. The proposals will ensure that surface water from the development is suitably managed and that the development will not increase the risk of flooding on site or elsewhere. The proposals accord with the above policy provisions.

Scottish Water has provided comments following consultation on this application. The responsibility rests with the applicant to obtain the necessary consents from Scottish Water regarding any connections to the surrounding Scottish Water network.

The applicant is proposing to provide two electric car charging points as part of the parking arrangements which have been agreed by Transportation and covered by condition. Further information on provision of Information Communication Technologies (ICT) and fibre optic broadband connections will be sought by condition ensuring the proposal complies with Policy PP3 requirements.

Noise, Light and Odours (EP14)

EP14 seeks to control pollution (air, water, soil, light and noise) by ensuring submission of detailed assessments with applications along with mitigation (if required).

A Noise Impact Assessment has been submitted in support of the application which details an assessment of likely noise impacts along with mitigation measures to protect amenity. Environmental Health has reviewed this information, is content with its findings

and has raised no objection subject to conditions requiring implementation of these measures to control noise emissions. These include requirements to install attenuation louvres and orientation of exhaust terminals/louvres away from nearby noise receptors, Construction Environmental Management Plan (CEMP) to minimise construction related noise, fitting of louvres to buildings containing motors and pumps and the siting of external motors and pumps internally or housed within acoustic enclosures. A further condition is recommended controlling hours of construction works including vehicle movements. These along with the separation distances to nearby noise receptors are considered sufficient to protect residential amenity from the harmful effects of noise.

In order to address potential pollution impacts on the environment, SEPA has recommended a condition requiring submission and approval of a Site Specific Construction Environmental Management Plan (CEMP). This is required to minimise and control impacts of construction works on the environment and adjacent water course. SEPA has recommended that the CEMP is submitted at least 2 months prior to the commencement of any works on site; this is to allow sufficient time to fully review the mitigation proposals and to avoid any potential delays to the project moving forward. Further conditions are recommended requiring no dewatering in connection with construction works and foundations for proposed water tanks to be set at specified levels to prevent any significant impacts on groundwater.

Environmental Health has further recommended that informative notes be attached highlighting that odour and artificial lighting associated with the development should comply with the terms of the Environmental Protection Act 1990 to avoid giving rise to a statutory nuisance.

A further condition shall be attached requiring submission and approval of an external lighting scheme for the site to minimise light pollution disturbance during the lifetime of the development.

Subject to compliance with these conditions the proposal would accord with policy EP14.

Flooding (EP12)

Policy EP12: Management and Enhancement of the Water Environment aims to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. It also states that 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.

The corridor along the Burn of Aberlour which runs through the site and adjacent ground is identified as being subject to river and surface water flood risk. A Flood Risk Assessment (FRA) and updated drainage statement have been submitted to inform consideration of this risk. This has also included submission of additional information regarding groundwater levels and proposed foundations levels.

SEPA and Moray Flood Risk Management team have assessed this information and are content with the conclusions of the FRA. In its consultation responses SEPA notes that the proposals involve redevelopment of the existing distillery, and there is no increase in land use vulnerability as a result of the proposals. It further notes that the submitted information identifies that no buildings or land raising is expected to be in the 1 in 200 year

functional floodplain, and that flood levels shown in the climate change scenario are contained within the site, so flood risk elsewhere is unlikely to be increased. As such SEPA and Moray Flood Risk Management have raised no objection on flood risk grounds.

The principle and location of the proposed bridge crossings over the Aberlour Burn have been accepted by SEPA, FRM and Transportation. Some land raising on the right bank is proposed for the approach to the road bridge. The proposed bridge has been modelled in line with findings of the Flood Risk Assessment (FRA) and in the 1 in 200 year event, and on this basis no change in flood risk is expected. The cut and fill drawing shows that the proposed land raising is outwith the functional floodplain. Submission of details of the design of the bridges and any associated works will be subject of a condition, to be agreed in consultation with SEPA, FRM and Transportation.

On this basis the proposed development complies with EP12.

Biodiversity (Policy EP2)

Policy EP2 Biodiversity states that all development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. It also requires proposals for 1000m² or more of commercial floorspace to create new, or where appropriate enhance, natural habitats of ecological and amenity value.

An ecological assessment and Site Biodiversity Action Plan has been submitted which sets out a range of measures to mitigate/compensate any impacts and enhancement to meet biodiversity objectives in line with this policy. This includes new and compensatory planting to enhance and increase habitat and biodiversity, such as native species trees, shrubs and grasses and hawthorn hedgerows along with mitigation measures to address impacts on protected species. Implementation of this plan and measures outlined within the ecology assessment will be subject of a condition.

Access and Parking (DP1 & PP3)

The proposal is acceptable in terms providing safe access and parking in accordance with Policy DP1. The Transportation Manager and Transport Scotland have considered these aspects of the application and have raised no objection subject to conditions and informative notes being attached to the planning consent covering access arrangements, parking and submission of a Construction Traffic Management Plan.

Natural Heritage Designations EP1

The potential for pollution of the Aberlour Burn, part of the River Spey SAC, which runs through the proposal site, has been identified at pre-application stage. SNH have been consulted and have not objected subject to compliance with the recommended mitigation and compensation measures on the protection and enhancement of protected species for the site (including the timescales for their implementation as detailed) contained within the accompanying Ecological Impact Assessment.

The Aberlour Burn, part of the River Spey SAC, runs through the proposal site and the proposal has the potential to affect the 4 species of the SAC (freshwater pearl mussel, Atlantic salmon, sea lamprey and otter). The proposal is unconnected with conservation management and has been subject of an appropriate assessment by Moray Council, as

competent authority under the Conservation (Natural Habitats, & c.) Regulations 1994 as amended (the "Habitats Regulations") to consider its effect on the abovementioned designation interests. (Appendix 2 refers).

Following assessment of the submitted ecological information (which includes a range of embedded mitigation measures) Scottish Natural Heritage has advised that the proposal will not adversely affect the integrity of the sites or their interests based upon various considerations as detailed within its consultation response. This advice also informed the abovementioned appropriate assessment and is summarised below for sake of completeness:

River Spey SAC - Unmitigated, construction and demolition activities surrounding the bridge construction could disturb salmon habitats in the Aberlour Burn, migrating fish moving up and down stream and potential pollution events during the construction phases. The applicant has acknowledged this and proposes to implement a management plan in order to mitigate and control activities affecting habitats in the burn and surrounding landscape. Conditions will be use accordingly to ensure compliance with agreed mitigation measures and timescales for works to minimise habitat impacts, as recommended by SNH.

The site was also identified as having potential for a variety of protected and non-protected species principally because of the works to the roofs of the buildings. A bat survey identified that bats were using 3 of the buildings affected by the proposals. Bats were found in the cask stores and above the hot water tanks in main distillery building.

These species of bat found (pipistrelle) are not uncommon. Subject to works being carried out in accordance with the requirements set out in the mitigation section of the survey report the impact on roosts used by the bats is unlikely to be detrimental to the maintenance of these species at a favourable conservation status in their natural range. The mitigation proposed includes a species protection plan covering the provision of site specific bat boxes used to offset impacts due to demolition of buildings, remodelling of retained buildings and removal of trees, all of which could adversely affect bats by destroying roost sites. The plan will also address and mitigate for the increased lighting employed on construction sites that could adversely affect light-averse bat species that may be using the site for foraging or commuting to minimise impacts.

SNH has advised that with the above mitigation set out in the above species protection plan, a licence from SNH will be required by the applicant before they can proceed with development.

As required under the Habitats Regulations 1994 (as amended), The Council as Planning Authority is required to apply three tests in this case and satisfy itself that all 3 can be met prior to granting planning permission. SNH's remit is to advise on the third test and in this regard SNH have stated, "Our advice in relation to the third test is that based on the information currently available to us, it is likely that the tests would be met and therefore that a licence would be granted".

In relation to Test 1 it is considered that the works to rebuild the distillery will inevitably impact on bat habitats but for the purposes of overriding public interest for economic and social reasons i.e. ensuring continued occupation of an indigenous industry on the site by investing in it by way of extension/expansion, whilst safeguarding the future of the protected species by incorporating mitigating measures satisfies this test. With regard to

Test 2 there is no satisfactory alternative as the development proposals involves the removal of the exact location the bats were found to be using the building with new buildings.

In light of the above subject to suitable mitigation measures and strategies being covered by condition the proposal will not have a detrimental impact on European Protected Species or other species and complies with Policy EP1.

Historic Environment (EP8)

The aim of Policy EP8 is to protect archaeological sites from development that would have an adverse impact on the sites integrity and setting.

With its origins in the 19th Century, the Aberlour Distillery is included as a historic site in the Moray Historic Environment Record (site number NJ24SE0033). The regional archaeologist has recommended that a Level 1 archaeological standing building survey of the extant buildings and structures on the application site is undertaken prior to development commencing along with a photographic survey (internally & externally) to ensure that a historic record of the buildings is made for inclusion in the National Record of the Historic Environment and in the local Historic Environment Record. This will covered by condition as recommended.

CONCLUSION

This proposal reflects the operational needs of the distillery and will contribute to sustainable economic growth. The design and materials are considered to be acceptable in this location and the site can be appropriately serviced. The proposal accords with relevant policies of the Moray Local Development Plan 2020 and it is recommended that planning permission is granted subject to the recommended conditions.

REASON(S) FOR DECISION

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

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

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APPENDIX 1

POLICY

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 sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi-functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the

Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
 - Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
 - Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
 - Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
 - Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
 - Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.
- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary

Guidance on the Open Space Strategy, Masterplans and Development Briefs.

- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District

Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.

- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP5 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.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

- 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.

DP8 TOURISM FACILITIES AND ACCOMMODATION

Proposals which contribute to Moray's tourism industry will be supported where they comply with relevant policies. All proposals must demonstrate a locational need for a specific site.

Development built as tourism/holiday accommodation shall be retained for this purpose and will not become permanent residences. Conditions will be applied to planning consents to control this aspect.

To integrate caravan, chalet and glamping developments into their rural setting, stances/pitches will be required to have an informal layout and be satisfactorily landscaped to ensure development is screened and discrete. Provision within sites for touring caravans/campers and tents must be included.

Proposals for hutting will be supported where it is low impact, does not adversely affect trees or woodland interests, or the habitats and species that rely upon them, the design and ancillary development (e.g. car parking and trails) reflects the wooded environment and the proposal complies with other relevant policies. Proposals must comply with 'New Hutting Developments - Good Practice Guidance on the Planning, Development and Management of Huts and Hut Sites' published by Reforesting Scotland.

Proposals for tourism facilities and accommodation within woodlands must support the proposals and strategy set out in the Moray Woodlands and Forestry Strategy.

DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

All renewable energy proposals will be considered favourably where they meet the following criteria:

- i) They are compliant with policies to safeguard and enhance the built and natural environment;
- ii) They do not result in the permanent loss or permanent damage of prime agricultural land;
- iii) They avoid or address any unacceptable significant adverse impacts including:

- Landscape and visual impacts.
- Noise impacts.
- Air quality impacts.
- Electromagnetic disturbance.
- Impact on water environment.
- Impact on carbon rich soils and peat land hydrology.
- Impact on woodland and forestry interests.
- Traffic impact -mitigation during both construction and operation.
- Ecological Impact.
- Impact on tourism and recreational interests.

In addition to the above criteria, detailed assessment of impact will include consideration of the extent to which the proposal contributes to renewable energy generation targets, its effect on greenhouse gas emissions and net economic impact, including socio-economic benefits such as employment.

b) Onshore wind turbines

In addition to the assessment of the impacts outlined in part a) above, the following considerations will apply:

i) The Spatial Framework

Areas of Significant Protection (Map 2): where the Council will apply significant protection and proposals may be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential (Map 1): where proposals are likely to be acceptable subject to Detailed Consideration.

ii) Detailed Consideration

The proposal will be determined through site specific consideration of the following on which further guidance will be set out in supplementary guidance and as informed by the landscape capacity study:

Landscape and visual impact:

- the landscape is capable of accommodating the development without unacceptable significant adverse impact on landscape character or visual amenity.
- the proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

Cumulative impact

- unacceptable significant adverse impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on local communities

- the proposal addresses unacceptable significant adverse impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- the proposal addresses unacceptable significant adverse impacts arising from the location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- the proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity, forest and woodlands and tourism and recreational interests - core paths, visitor centres, tourist trails and key scenic routes.
- the proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

iii) **Extensions and Repowering of Existing Wind Farms**

The proposal will be determined through assessment of the details of the proposal against Part a) and Parts b) (i) and (ii) above. Detailed assessment of impact will include consideration of the extent to which:

- the proposal, for extensions, impacts on the existing wind farm(s) setting and the ability to sit in the landscape on its own should the existing wind farm be decommissioned before the extension.
- the proposal, for repowering, makes use of existing infrastructure and resources, where possible, and limits the need for additional footprint.

c) **Biomass**

Proposals for the development of commercial biomass will be supported if the following criteria are met.

- Applicants must confirm which form of biomass will fuel the plant and if a mixture of biomass is proposed then what percentage split will be attributed to each fuel source.
- Proposals must demonstrate that they have taken account of the amount of supply fuel over the life of the project.
- When considering wood biomass proposals, the scale and location of new development is appropriate to the volume of local woodfuel available. Sources of fuel must be identified and must be sustainable.
- The location must have suitable safe access arrangements and be capable of accommodating the potential transport impacts within the surrounding roads network.
- A design statement must be submitted, which should include photomontages from viewpoints agreed by the Council.
- There must be a locational justification for proposals outwith general employment land designations. The proposed energy use, local heat users and connectivity of both heat users and electricity networks must be detailed. Proposals which involve potential or future heat users will not be supported unless these users can be brought online in conjunction with the operation of the plant.
- Details of the predicted energy input and output from the plant demonstrating the plant efficiency and utilisation of heat must be provided.
- Where necessary, appropriate structural landscaping must be provided to assist the development to integrate sensitively.

The criteria set out in relation to all renewable energy proposals (part a) must also be met.

The Council will consult with Scottish Forestry to help predict potential woodfuel supply projections in the area.

d) **Heat**

Where a heat network exists or is planned, proposals should include infrastructure to allow connection to that network.

Where no heat network is present or planned:

- Proposals should consider the feasibility for the creation of or connection to a heat network.
- Proposals should safeguard piperuns within the development, to its curtilage, for future connection to a heat network.
- Proposals should consider the provision of energy centres, or the reservation of land for an energy centre to facilitate future connection to a heat network.

Proposals for new development will be compared with the Scotland Heat Map to identify if it could make use of an existing heat supply or provide excess heat to heat users. This will be the case until the Council has concluded work on identifying where heat networks, heat storage and energy centres exist or would be appropriate in the plan area, at which point reference to that work should be made. Developments which have a high heat demand are encouraged to co-locate with sources of heat supply.

Where heat networks are not viable, proposals should include the use of microgeneration technologies and heat recovery associated with individual properties, unless demonstrating this is unnecessary or unviable.

The criteria set out in relation to all renewable energy proposals (part a) must also be met.

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

Development likely to have a significant effect on a European Site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a European Site may be approved where:

- i) There are no alternative solutions, and
- ii) There are imperative reasons of over-riding public interest including those of a social or economic nature, and
- iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For European Sites hosting a priority habitat or species (as defined in Article 1 of the The Conservation (Natural Habitat & c.) Regulations 1994), prior consultation with the European Commission via Scottish Ministers is required unless the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations

Development proposals which will affect a National Park, National Scenic Area (NSA), Site of Special Scientific Interest (SSSI) or National Nature Reserve will only be permitted where:

- i) The objectives of designation and the overall integrity of the area will not be compromised; or
- ii) Any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

c) Local Designations

Development proposals likely to have a significant adverse effect on Local Nature Reserves, wildlife sites or other valuable local habitats will be refused unless it can be demonstrated that;

- i) Public benefits clearly outweigh the nature conservation value of the site, and
- ii) There is a specific locational requirement for the development, and
- iii) Any potential impacts can be satisfactorily mitigated to conserve and enhance the site's residual conservation interest.

d) European Protected Species

European Protected Species are identified in the Habitats Regulations 1994 (as amended in Scotland). Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application, to demonstrate how the Regulations will be complied with. The survey should be carried out by a suitably experienced and licensed ecological surveyor.

Proposals that would have an adverse effect on European Protected Species will not be approved unless;

- The need for development is one that is possible for SNH to grant a license for under the Regulations (e.g. to preserve public health or public safety).
- There is no satisfactory alternative to the development.
- The development will not be detrimental to the maintenance of the favourable conservation status of the species.

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan demonstrating how impacts will be avoided, mitigated, minimised or compensated for.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

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

Proposals for 4 or more housing units or 1000 m² or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER

i) Special Landscape Areas (SLA's)

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

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

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

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

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

EP6 SETTLEMENT BOUNDARIES

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

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of other relevant Local Development Plan policies. The council will consult Scottish Forestry on proposals which are considered to adversely affect forests and woodland. Development proposals must give consideration to the relationship with existing woodland and trees including shading, leaf/needle cast, branch cast, wind blow, water table impacts and commercial forestry operations.

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term. A landscaped buffer may be required where the council considers that this is required to maintain an appropriate long term relationship between proposed development and existing trees and woodland.

Where it is technically unfeasible to retain trees, compensatory planting on a one for one basis must be provided in accordance with (e) below.

c) Control of Woodland Removal

In support of the Scottish Government's Control of Woodland Removal Policy, Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified as Ancient Woodland will not be supported.

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where it is proposed to remove woodland, compensatory planting at least equal to the area to be felled must be provided in accordance with e) below.

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape,

wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland Removal policy, woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Where woodland is to be removed then the Council will require compensatory planting to be provided on site, on another site in Moray within the applicant's control or through a commuted payment to the Council towards woodland and greenspace creation and enhancement. Developers proposing compensatory planting are asked to follow the guidance for site assessment and woodland design as laid out in Scottish Forestry's "Woodland Creation, Application Guidance" and its subsequent updates, when preparing their proposal.

The Council requires a Tree Survey and Tree Protection Plan to be submitted by the applicant with any planning application for detailed permission on designated or windfall sites which have trees on them. The survey should include a schedule of trees and/or groups of trees and a plan showing their location, along with the following details;

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.
- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

Based on the guidance in BS5837, only category U trees are discounted from the Tree Survey and Tree Protection Plan process. Trees in category A and B must be retained, with category C trees retained as far as practicable and appropriate. Trees proposed for removal should be replaced with appropriate planting in a landscape plan which should accompany the application. Trees to be retained will likely be set out in planning conditions, if not already covered by a Tree Preservation Order.

If a tree with habitat value is removed, then measures for habitat reinstatement must be included in the landscape plan. It is noted that in line with part b) of policy EP7 where

woodland is removed compensatory planting must be provided regardless of tree categorisation."

A Tree Protection Plan (TPP) must also be submitted with planning applications, comprising a plan and schedule showing;

- Proposed design/ layout of final development, including accesses and services.
- Trees to be retained- with those requiring remedial work indicated.
- Trees to be removed.
- Location (and specification) of protective fencing around those trees to be retained based on the Root Protection Area.

The TPP should show how the tree survey information has informed the design/ layout explaining the reasoning for any removal of trees.

Landscape Scheme

Where appropriate a landscape scheme must be submitted with planning applications, clearly setting out details of what species of trees, shrubs and grass are proposed, where, what standard and when planting will take place. Landscape schemes must aim to deliver multiple benefits in terms of biodiversity, amenity, drainage and recreation as set out in policy.

The scheme should also set out the maintenance plan. Applicants/ developers will be required to replace any trees, shrubs or hedges on the site which die, or are dying, severely damaged or diseased which will be specified in planning conditions.

Tree species native to Scotland are recommended for planting in new development - Alder, Aspen, Birch, Bird Cherry, Blackthorn, Crab Apple, Elm, Gean, Hawthorn, Hazel, Holly, Juniper, Sessile Oak, Rowan, Scots Pine, Whitebeam, Willow.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

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

- a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
 - Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.
 - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow.
 - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
 - Employment related accommodation e.g. caretakers or operational staff.

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available;

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

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

b) Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

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

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

All developments of less than 3 houses or a non-householder extension under 100 square metres must provide a Drainage Statement. A Drainage Assessment will be required for all developments other than those identified above.

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a

standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD) water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

Width to watercourse (top of bank)	Width of buffer strip (either side)
Less than 1m	6m
1-5m	6-12m
5-15m	12-20m
15m+	20m+

The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required to support proposals.

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.

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

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

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

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

APPROPRIATE ASSESSMENT for Phased remodel and rebuild of existing distillery including new evaporator bio plant boiler house still house tun room mash room new visitor parking with access bridge and associated landscaping at

Impact of proposal upon River Spey Special Area of Conservation and Site of Special Scientific Interest

The Conservation (Natural Habitats, &c.) Regulations 1994 require that certain proposals which are likely to have a significant effect on a 'Natura 2000' site must be subject to an "Appropriate Assessment" by the plan-making authority. The process for determining whether an appropriate assessment is required, together with the appropriate assessment itself - where necessary - is known as 'Habitats Regulations Appraisal'.

Natura 2000 sites include Special Areas of Conservation (SACs), areas designated under the EC Habitats Directive to give increased protection to variety of wild animals, plants and habitats.

Following consultation SNH has advised that as competent authority, the Moray Council is required to undertake an "appropriate assessment" of the phased remodel and rebuild of existing distillery including new evaporator bio plant boiler house still house tun room mash room new visitor parking with access bridge and associated landscaping at Aberlour Distillery.

As part of this assessment, account has been taken of:

- The proposed phased redevelopment of Aberlour distillery including supporting ecological and biodiversity proposals.
- the Council's adopted Screening Opinion for the development, which concludes that no significant environmental effects are considered likely to occur taking into account the character and location and potential impact characteristics of the development; and
- consultation responses received in relation to the request from SNH and SEPA.

The assessment is required to consider the potential impact of the development upon the Aberlour Burn, part of the River Spey Special Area of Conservation (SAC)

Advice from SNH is that this proposal is likely to have a significant effect on the 4 species of the SAC (freshwater pearl mussel, Atlantic salmon, sea lamprey and otter). Consequently, Moray Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests. The designation of these sites requires the implementation of conservation measures which correspond to the ecological requirements of habitats and species present on the site and taking appropriate steps to avoid the deterioration of the natural habitats and habitats of species, as well as eliminating significant disturbance of species for which the site is designated and to ensure their maintenance in the long term.

To help you do this, we advise that in our view on the basis of the information provided, if the proposal is undertaken strictly in accordance with the following mitigation, then the proposal will not adversely affect the integrity of the site.

Following consideration, effects upon the River Spey SAC (both direct and indirect) relate to uncontrolled discharge of waters, potential pollution and other effects from the phased redevelopment works on the qualifying interests of River Spey SAC.

In summary, as part of the appropriate assessment process, the Council, as “competent authority” has considered the following

Is the proposal directly connected with, or necessary for site management for nature conservation (in this case River Spey SAC)?

No. The proposed development is phased redevelopment the site including demolition and replacement of distillery buildings and plant on an established distillery site. The proposal has no direct connection with, nor is it needed for, nature conservation purposes in relation to the River Spey SAC.

Is the proposal likely to have a significant effect on the site (i.e. the River Spey SAC)?

Yes. Bridge construction could disturb the bed of the Aberlour Burn and damage salmon habitat. Any structures placed in-stream could hinder or prevent migratory fish from moving up and downstream. Surface water runoff and on-site pollution events during construction and demolition work could cause the water quality to deteriorate. Operational surface water site drainage, if not managed appropriately, could cause water quality to deteriorate.

Atlantic salmon and otter are known to use the burn. Freshwater pearl mussel are unlikely to reside in the burn but are present in the main River Spey some 300 m downstream from the development site. Sea lamprey are also present in the main river. Indirect impacts could however extend to the main river, for example during a pollution event.

The need to address this significant effect is identified in the consultation responses from

- SNH, who confirm that there is the potential for species to be adversely impacted upon; and
- SEPA, who highlight the associated flood risks in the vicinity of development and potential pollution from activities associated with the construction phase of development.

Can it be ascertained that the proposal will not adversely affect the integrity of the site?

Yes. In this case:

- (a) The applicant has committed to implementing appropriate mitigation during the phased redevelopment works, noting here the confirmations, working practices, methodology, mitigation and pollution prevention measures as set out in the submitted Ecological Impact Assessment on behalf of Aberlour Distillery (Chivas Brothers Ltd) by Blythe & Blythe (in collaboration with Ecos Countryside Services LLP) dated 6 December 2019:
 - There must be no permanent or temporary structure(s) in the Aberlour Burn that could impede upstream or downstream movements of Atlantic salmon of whatever life stage.

- Disturbance to the bed of the burn can be minimised by reviewing the bridge construction method statement to ensure that best practice is followed to minimise any residual impact.
- A Construction Management Plan will be developed to prevent pollution incidents and deliver a mechanism (Pollution Plan) for dealing with any such incidents.
- Operation of the site will comply with all SEPA guidance and any SEPA licences.
- Development will not result in new, or untreated discharges. All surface water and treated water will be discharged through existing pipe networks.

In addition there will be the requirement that any work impacting on the bed of the burn must avoid the times of year when salmon spawn is present and very young fish are immobile. Generally this means that river works impacting on stream beds cannot be carried out from 01 October to the 31 May inclusive.

- (b) Scottish Natural Heritage has confirmed that it has been in previous liaison with the applicant and their ecologist and agreed that with the implementation of the mitigation proposed there will be no adverse effects on important natural heritage interests i.e. qualifying interests of the River Spey SAC. In addition it is recommended ongoing liaison with SNH, SEPA and the Spey Fishery Board to ensure that bridge design is appropriate and timing of construction is scheduled to avoid harm to salmon.
- (c) Both species of pipistrelle bat are not uncommon and Speyside's habitats and buildings (particularly distilleries) support many known breeding and non-breeding roosts of these species. The loss of roosting opportunities for small numbers of non-breeding bats will not adversely impact on their favourable conservation status. The Species Protection Plan can also identify simple mitigation to avoid disturbance to the maternity roost, for example ensuring that site lighting is positioned away from roost entrances.

CONCLUSION

Can it be ascertained that the integrity of the Natura site will not be adversely affected?

Yes - The application is supported by a ecology report which contains a detailed assessment of the likely impacts of the proposal on the relevant protected areas together with mitigation. This information has been reviewed by SNH which has confirmed full agreement with the findings and the mitigation identified to avoid adverse effects on these sites.

The four qualifying interests of the SAC will not be adversely affected by the demolition works and the conservation objectives will be met during and after demolition. Based on the assessment, the integrity of the River Spey SAC will not be adversely affected and with successful mitigation will meet the conservation objectives of the qualifying species.

SEPA has raised no objections to the proposal and reiterates previous advice confirming that all activities under SEPA's remit shall be regulated under Controlled Activities Regulations.

Recommendation

Appendix 2

For appropriate assessment purposes and as competent authority, it is recommended that the Council, as planning authority, adopt this assessment to enable the planning application to be determined thereafter.