

20/01251/MIN
25th September
2020

**Proposed hard rock quarry and mineral processing area
extraction area 1.99Ha at Backmuir Keith Moray AB55
5PE
for Backmuir Trading Limited**

Comments:

- Refer to Committee in accordance with the approved delegation scheme - where the site exceeds 2 hectares.
- Advertised under Schedule 3 of the Development Management Regulations 2013, as a potential departure from Moray Local Development Plan 2020 and for neighbour notification purposes.
- No representations received.

Procedure:

- None.

Recommendation **Grant Planning Permission - subject to the following:-**

Conditions/Reasons

1. Unless otherwise agreed in writing with the Council, as Planning Authority, the approval hereby granted is for a limited period only expiring 30 years from the date of this consent. This permission consists of a 29 year period for extraction with the final year to be solely for the purposes of site restoration and planting. If the quarry is exhausted sooner than this period, then the full restoration must be carried out within 12 months from when mineral extraction ceases.

Reason: In order that the Council, as Planning Authority may retain control over the use of the site and to ensure that further consideration can be given to the operation, effects and impact of the use approved herewith on the amenity and character of the area.

2. The quarries operations must be carried out in accordance with the updated Site Specific Management Plan, submitted in December 2020, and in particular the mitigation measures for environmental, amenity traffic, health and safety impacts arising from the quarrying operation.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

3. Prior to the commencement of works a detailed restoration and aftercare plan shall be submitted to and approved in writing by the Council, as Planning Authority (in consultation with SEPA) and all work shall be carried out in accordance with the said scheme.

The restoration and aftercare plan, must be based upon the approved Remediation Strategy and include:-

- a) detailed landscaping proposal identifying the specific number, species and location of tree and shrub planting so as to maximise biodiversity and replace felled trees;
- b) details of the specific wetland planting to enhance the biodiversity of the approved pond;
- c) further mitigation and habitat enhancements recommended in the Habitat Survey namely a variety of bat/bird boxes;
- d) details of any proposals for phased working and progressive restoration where possible;
- e) measures to replace within 5 years of planting any trees that are damaged, become diseased or die.

Reason: To retain control over this temporary form of development and ensure that the site is appropriately restored in the interests of the protection of the environment.

4. The development shall not become operational until vehicle wheel cleansing facilities have been installed and brought into operation on the site, the design and siting of which shall be subject to the prior written approval of the Council, as Planning Authority, after consultation with Transport Scotland as the Trunk Road Authority. Thereafter, the vehicle wheel cleansing facilities shall be in operation for the lifetime of the quarry.

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

5. The 'control measures' identified in section 4 of the submitted Local Residential Amenity Impact Management Method Statement to mitigate the effect of quarrying on local residents, must be adhered to throughout the lifetime of the quarry.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

6. The 'control measures' identified in section 5 of the submitted Noise Management Method Statement to mitigate the effect of quarrying on local residents, must be adhered to throughout the lifetime of the quarry.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

7. The measures identified in the submitted Tree Protection Plan must be adhered to as the quarry is being established.

Reason: In order to ensure protection of neighbouring trees that add the biodiversity and visual screening of the quarry.

8. All quarry operations shall be carried out and permitted between 0800 - 1800, Monday to Friday, and 0800 - 1300, Saturdays and at no other times without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager, notwithstanding the separate time periods in condition 9 as it specifically relates to blasting times. There shall be no quarry operations on Bank Holidays or National Holidays.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. During the normal daytime working hours defined in the above condition, the free-field Equivalent Continuous Noise Level (LAeq, 1h) for the mineral extraction, processing and dispatch of products, (excluding bund formation, soil and overburden handling activity, and drilling operations), shall not exceed the greater of 45dB(A) or 10 dB above the existing background sound level for operations, as measured at any existing noise sensitive property. The existing average background sound levels (L A 90) are confirmed in Tables 1.1 to 1.3 of the Noise Impact Assessment supporting document by Vibrock Limited, Shanakeil, Ilkeston Road, Heanor, Derbyshire, dated 9 February 2021, Report Ref. R21.10820/3/AF and titled "Assessment of Environmental Impact of Noise at Backmuir Quarry, Moray."

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

10. During the normal daytime working hours defined in the condition above, the free-field Equivalent Continuous Noise Level (LAeq, 1h) for the mineral extraction, processing and dispatch of products, in combination with drilling operations (and excluding bund formation, soil and overburden handling activity), shall not exceed 55dB(A), as measured at any existing noise sensitive property, and be limited to a period not exceeding 15 days in any calendar year.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

11. The proposed noise attenuation bunds shall be installed at the locations and heights as described in the supporting document drawing by Fairhurst, dated 10 February 2021, Drawing No. 135521/8106 and titled "Backmuir Quarry, Keith. Proposed Noise Attenuation Bund." Noise from soil and overburden handling and other works in connection with landscaping the noise attenuation bunds, shall not exceed the free-field Equivalent Continuous Noise level (LAeq,1h) of 70 dB(A) at any existing noise sensitive property and be limited to a period not exceeding 8 weeks in a year at any one property. This proposed noise attenuation bunds shall be maintained throughout the lifetime of quarrying operations at the development.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

12. At the reasonable request of the Council, as Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note 'PAN50, Annex A: The Control of Noise at Surface Mineral Workings'. The results of such monitoring shall thereafter be forwarded to the Council, as Planning Authority. In the event that the results of the subsequent monitoring confirms noise levels exceeding that in the above noise limit conditions, further timeous mitigation measures will be required to be identified in a scheme agreed in writing by the Council, as Planning Authority, in consultation with the Environmental Health Manager, and thereafter implemented.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area. Also to allow further controls to protect neighbouring amenity if required.

13. Prior to the commencement of any blasting operations a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the Council, as Planning Authority for written approval. All blasting operations shall take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the Council, as Planning Authority.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

14. Ground vibration as a result of blasting operations at the development shall not exceed a peak particle velocity of 6 mms⁻¹ at 95% of all blasts over a 12 month period, and no individual blast shall exceed a peak particle velocity of 10mms⁻¹, as measured at vibration sensitive third party dwellings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive third party dwelling.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

15. No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) Monday to Friday and (1000 and 1200 hours) on Saturday.

There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

16. The above condition shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Council, as Planning Authority shall be notified in writing immediately of the nature and circumstances of any such event.

Reason: In order to ensure that, if necessary, blasting may take place in the interests of safe working.

17. Dust emissions associated with the development shall be suitably managed and mitigated by adhering to the submitted scheme in the supporting document by Fairhurst dated 14 September 2020 and titled "Backmuir Quarry Dust Management Method Statement, Project Reference 137251".

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

18. Notwithstanding the submitted details, no works shall commence until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
- a) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of a passing place on the public road, minimum length of 25 metres with 15 metre long tapers at each end and a minimum width of 6.0 metres with a minimum verge width to the rear of the passing place of 1.0 metres.
 - b) Detailed drawings (Scale 1:500 minimum) showing the provision of a clear line of sight between the western end of the passing place and a point on the centreline of the development access 25 metres back from the edge of the public carriageway. The area of land between the public road, development access and sightline shall be kept clear of any obstruction above 1.0 metres in height measured from the level of the public carriageway for the lifetime of the development.
 - c) Detailed drawings (Scale 1:500 minimum) showing the design specifications and timescale for the upgrading of the development access onto the public road for a minimum distance of 15 metres measured from the edge of the public carriageway and covering the widened area identified by the vehicle swept path analysis (Fairhurst drawing no 137521/1002 Rev A) and the provision of Hot Rolled Asphalt overlay on the entire width of the A43bH Backmuir Road for a minimum distance of 25 metres either side of the centreline of the development access.

Thereafter the passing place, access improvements, over-lay and sightline between the passing place and development access shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure provision of a safe and suitable access for vehicles, including the provision of a safe passing place and inter-visibility between the passing place and vehicles using the development access in the interests of road safety.

Reason(s) for Decision

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

The proposal accords with the provisions of the Moray Local Development Plan 2020 (subject to the conditions recommended) and there are no material considerations that indicate otherwise.

List of Informatives:

The ENVIRONMENTAL HEALTH MANAGER has commented that:-

Should the drinking water to be imported on to this development come from a private water supply, it will fall within the scope of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. For further information, contact the Council's Environmental Health section (tel 0300 1234561, email environmentalhealth@moray.gov.uk).

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

Prior contact should be made with the Health and Safety Executive (quarries) to ensure that the proposed extraction is conducted in accordance with the legislation the enforce.

The TRANSPORTATION MANAGER has commented that:-

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

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

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

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

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

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

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

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

The SCOTTISH ENVIRONMENTAL PROTECTION AGENCY has commented;-

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs). Any associated dewatering may also require CAR authorisation depending on the dewatering rate. Details should be provided of how any dewatering will be managed, the amount of groundwater proposed to be abstracted and the anticipated timescales in the site specific management plan

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. It would be helpful if the applicant can contact the local compliance team to confirm the proposals for processing of the quarried minerals on site. Consider if other environmental licences may be required for any installations or processes.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team, Grampian and Speyside, at: GS@sepa.org.uk. If you have any queries relating to this letter, please contact e-mail at planning.north@sepa.org.uk.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
137521/8100		Location plan
137521/8101		Site plan
137521/8102		Proposed quarry layout
137521/8103		Cross section through proposed quarry

BQK-2012-AA-2	Arboricultural Assessment - Trees 1-30
BQK-2012-AA-1	Arboricultural assessment
BQK-2012-AA-3	Arboricultural Assessment - Trees 31-36
BQK-2012-TP-1	Tree protection and management plan
BQK-2012-TP-2	Tree Protection - Trees 1-30
BQK-2012-TP-3	Tree Protection - Trees 31-36
137521/1001	Access road layout and details
137521/1002 A	Vehicle swept path analysis
	Revised restoration strategy
137521/8106	Noise plan
	Local Residential Amenity Impact Management Method Statement
	Dust Management Method Statement
	Noise Management Method Statement
	Assessment of Environmental Impact of Noise at Backmuir Quarry Moray



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

20/01251/MIN

Site Address:

Backmuir

Keith

Applicant Name:

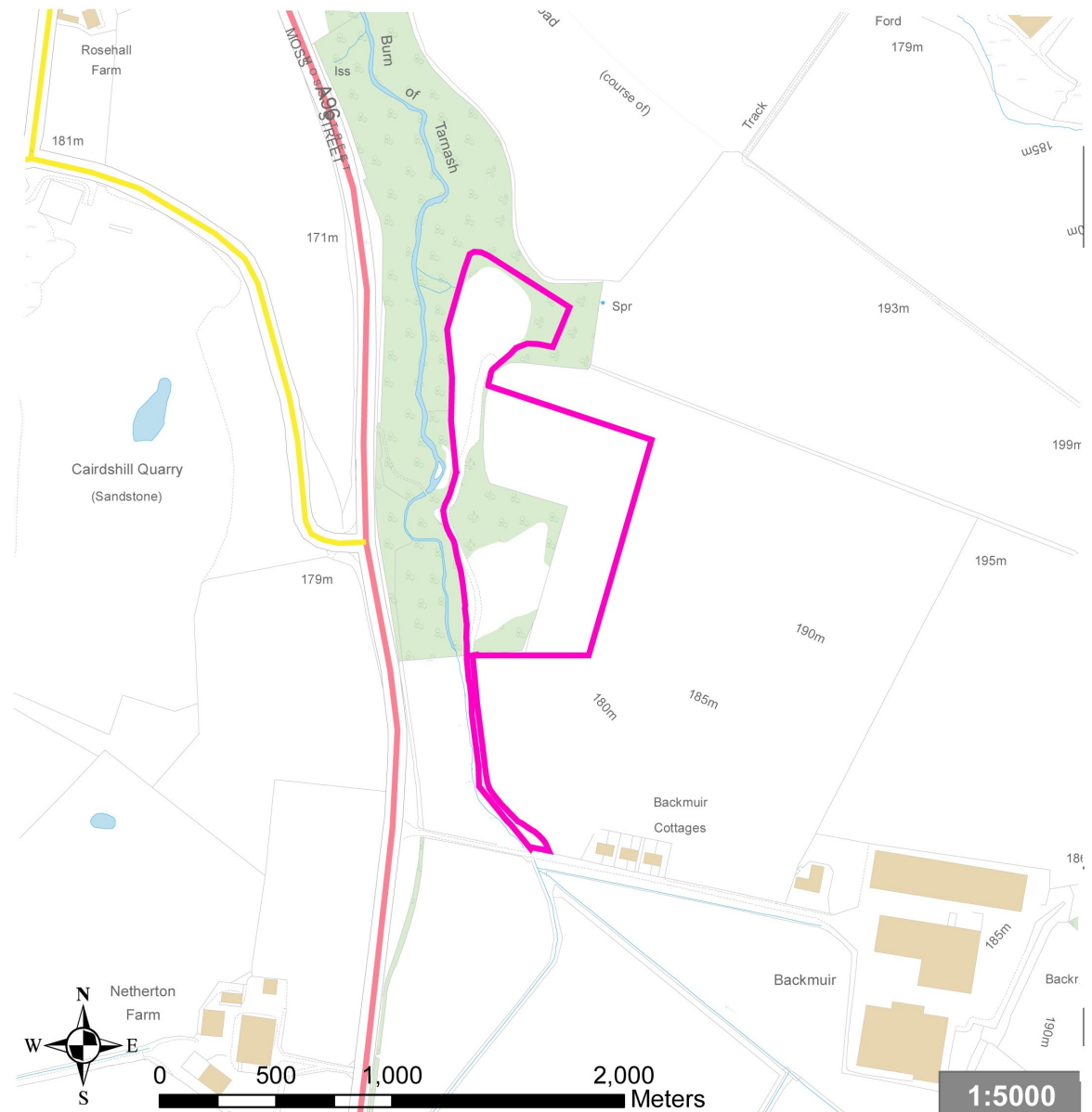
Backmuir Trading Limited

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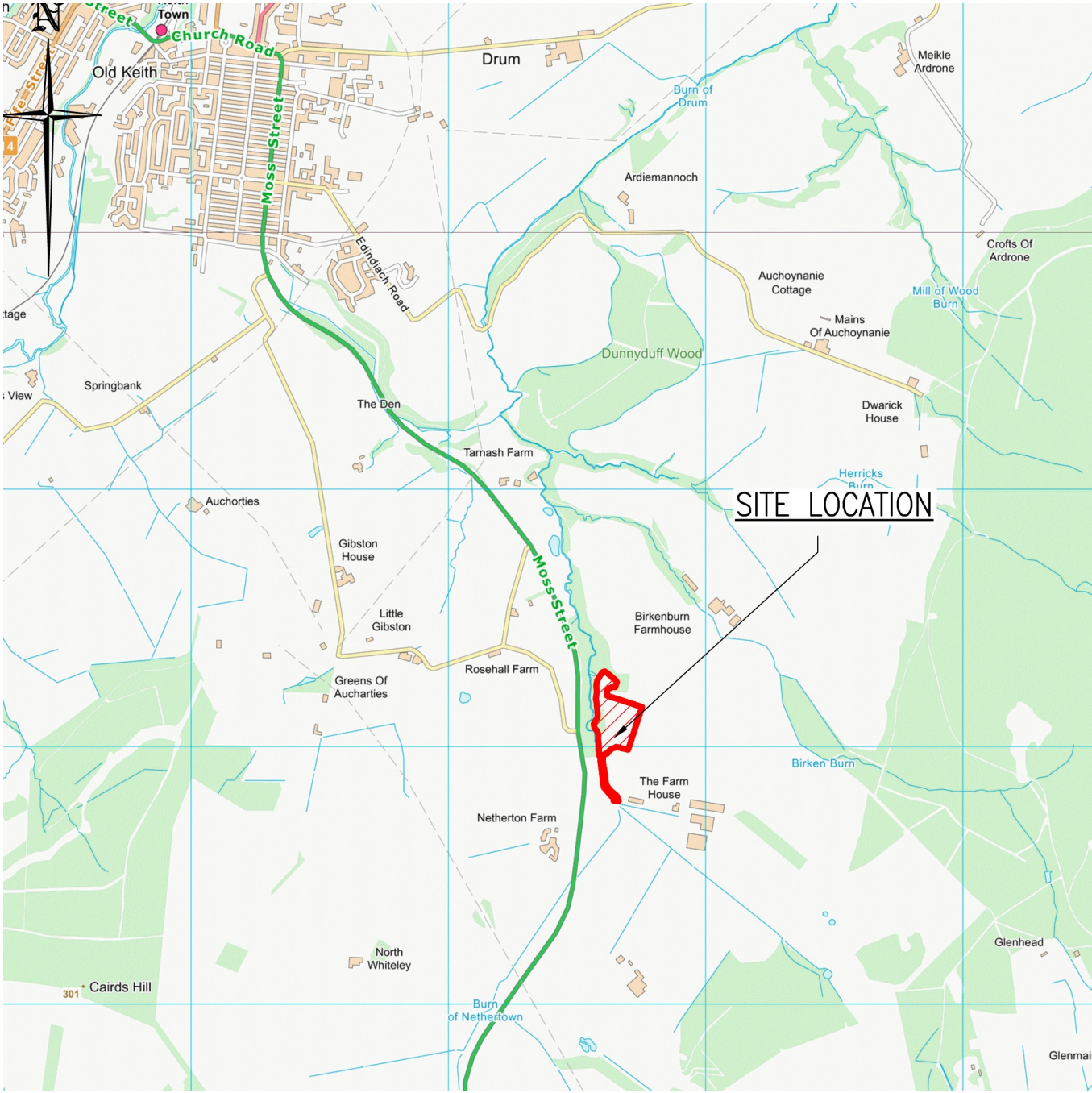
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Location Plan



Site Location



Proposed quarry layout



Photo location plan



View 1



View 2



13/11/2020

View 3



13/11/2020

View 4



View 5



PLANNING APPLICATION: 20/01251/MIN

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

- Expand former agricultural quarry by approximately 1.9 hectares, and utilises existing large hardstanding area for storing/processing material. The material to be extracted would be hard rock aggregate.
- Quarry to extract approximately 25,000-30,000 tonnes per annum, with an expected yield of approximately 280,000m³ over its lifetime. This equates to approximately a 25/30 year duration, although it is noted that the quarry is being progressed with a specific project in mind, in the form of Moray West offshore windfarm cable route between Blackhillock and Portsoy, which will pass this location and will require substantive quantities of material. The cable route site passes the proposed quarry meaning that material may well be hauled on private tracks from the quarry directly onto site, rather than going via the public road network.
- Provision of two welfare/office cabins within the quarry floor, and informal parking area.
- The proposals also include an area for processing and stockpiling stone on the existing large hardstandings and former quarry floor (picture 3 in the information pack).
- A passing place is to be provided between the access to the site, and the trunk road entrance.
- A restoration and aftercare scheme outlining the remediation of the landscape after extraction has been concluded.
- The quarry will be excavated in two phases, with a second phase extracting to a lower and finished quarry level.

THE SITE

- Long established agricultural quarry and substantive works area/yard previously/currently used for agricultural purposes.
- The site is bound by higher agricultural land to the east and south east, and by a wooded small valley to the west and north through which the Burn of Tarnish flows northward. The wooded burn separates the site from the A96(T) to the west.
- The site is partially located on what was previously agricultural land and field boundary woodland adjoining the former agricultural quarry. The trees visible on the submitted aerial photo plans have already been removed from site.
- Part of the site falls within an ancient woodland inventory. There are trees at the periphery of the site, where it bounds the woodland within the small Burn of Tarnish valley west of the site.
- The site area extends to 3.6 hectares, including the access track from the minor adopted Backmuir road which extends as far as Backmuir Cottages.

- Backmuir Cottages (6 semi-detached properties) are located to the south east of the site, and other farms and residences are located in the wider vicinity.
- There are no public paths within the vicinity of the site.

HISTORY

18/01046/EIA - Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds access track laydown areas and other associated works from within the vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm, Keith, Moray, AB55 5PH for Moray Offshore Windfarm (West) Limited.

This consent encompasses the proposed quarry area, with the cables to run past Backmuir. This consent was granted approval in 03.12.2018 and is currently being progressed.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.
- Advertised as a development of a Class specified in Schedule 3 of the Development Management Regulations 2013.
- Advertised as a departure from Moray Local Development Plan 2020.

CONSULTATIONS

Strategic Planning & Development – The proposal is in a good, accessible location which is well screened and will have no adverse visual impact on the landscape. The development would contribute towards long-term planning for the provision of construction aggregates in Moray.

The submitted information also provides the necessary information to address the requirements of other relevant policies such as Policy PP3 Infrastructure and Services, DP1 Development Principles and EP7 Forestry, Woodlands and Trees.

The applicant was requested to demonstrate more fully how landscaping/design of the restoration and aftercare might enhance biodiversity and habitat enhancement features into the design of the development, in order to give comfort on compliance with policies EP2 and DP10 (c). The revised Restoration Strategy gave some further indication of the measures to be undertaken, but did not pull together the recommendations from other assessments carried out such that conditions have had to be recommended to more fully confirm the above requirements. As the proposal relates to a small quarry, with a relatively straight forward restoration scheme, a suspensive condition is permissible in this instance, but typically more evidence would be sought up front to ensure biodiversity and

habitat improvements were incorporated. (*See case officer note in Observations Section where such matters are further addressed*).

Strategic Planning & Development (Developer Obligations) – None sought.

SEPA – No objections subject to a condition requiring Site Specific Restoration Plan being attached to any grant of planning permission.

Transportation Manager – Approve subject to a condition and note the provision of an additional passing place has been met.

Transport Scotland – Conditions required regarding wheel washing provision at the access to the site.

Moray Flood Risk Management – No objections.

Environmental Health – Approve subject to a number of conditions regarding noise blasting, dust, hours of operation and it is noted that an additional noise bund is to be provided.

Environmental Health (Private Water Supplies) – No objection subject to informative.

Environmental Health (Contaminated Land) – No objections.

Health and Safety Executive (Quarries) – No response at the time of writing report.

Environmental Protection – No objections

OBJECTIONS-REPRESENTATIONS

None received with statutory period for representations.

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.

Minerals applications are also assessed against PAN 50 Control of Environmental effects of Surface Mineral Workings (including its appendices) and the application has been submitted with adequate information for such an assessment to be made.

In support of the application, various documents were submitted. These include a Landscape and Visual Assessment, Local Residential Amenity Impact Management Method Statement, Dust Management Method Statement, Habitat Survey, Supporting Statement, Hydrological & Hydrogeological Appraisal, Archaeological Assessment, Site Specific Management Plan (including extractive waste), Noise, vibration and Blasting assessments, Tree Protection Plan and Transport Statement.

The main planning issues are considered as follows:

Background

As the new quarried area falls below 2 hectares, the proposal does not qualify as a 'major' development as defined under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. While the site is larger than 3 hectares this encompasses much of the existing old quarry area to be used for processing material and the large existing hardstanding area at Backmuir next to the quarry. The existing quarry and hardstanding would not historically have required planning permission and would have benefited from agricultural permitted development.

While there is no planning history for this location, mapping, aerial photograph and records confirm the presence of an agricultural quarry at this location for some time.

Relationship to Minerals Policy (DP10)

Policy DP10 Minerals states that amongst other criteria proposals for mineral extraction will be acceptable where they constitute an extension to existing operation/site, and/or relate to a reserve underlying a proposed development where it would be beneficial to extract prior to development. In this case the first criteria is met albeit an agricultural quarry to date, and the applicant has referred to the forthcoming, consented major cable laying infrastructure that would pass this locality. This is related to the Moray West Offshore windfarm onshore transmission works and would pass by the proposed quarry on its way to the Blackhillock substation.

There are benefits to gleaning material from close to development sites, as this reduces transportation of materials from other quarries. No pursuit or confirmation of the finance to remediate this site has been required, as the site being relatively small, with a topographically simple remediation layout means it would not be so costly an endeavour as to warrant some separate security. The conditions recommended would suffice to ensure remediation is carried out.

Noting the other matters below, the principle of the quarry accords with policy DP10.

Visual Impact (DP1 and DP10)

The applicant has submitted in aid of the planning application a Landscape and Visual Assessment which concludes that the quarry would sit within and below the hillside and would not constitute a visually prominent feature in the landscape. The quarry would not be visible from any nearby residences.

The submitted photomontages and visits to the location confirm that the quarry would be well sited and relatively discrete within the landscape. There may be periods in the winter, when deciduous foliage is absent from the woodland west of the site, that it becomes partially visible from the A96. The views would be fleeting however and largely obscured, and even in winter the substantive woodland west of the site obscures the proposed quarry (as it does at present for the small existing quarry). Elevated views from further west would be possible, but given the general presence of larger quarries in the locality would not detrimentally alter the landscape character of this area.

Upon this basis, the proposal does not conflict with the landscape protection elements of either policy DP1 Development Principles or DP10 Minerals.

Impact on woodland (EP7, DP1 and DP10)

EP7 Forestry, woodland and trees states that a tree survey, tree protection plan and mitigation plan must be provided with a planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Whilst initially advertised as a departure from DP1 and EP7 a detailed tree survey and arboriculture assessment was submitted, which assesses remaining trees at the site, but does note that trees were felled in the recent past north of the existing quarried area. It should be noted that tree felling does not in itself require planning permission, so the previous removal of woodland does not constitute a breach of planning control. A number of trees on the periphery of the proposed site have been identified in the tree survey and identified for retention/protection.

The surveys conducted confirm that parts of the site (due mainly to the riparian woodland along the Burn of Tarnish) are covered by the ancient woodland and woodland inventory designation. We note and acknowledge however from the submitted Habitat Survey, Tree Survey, Arboriculture Assessment that ancient woodland within the site was removed many years ago, when the hardstanding and laydown area was formed and no longer possess the qualities of ancient woodland. The hardstanding area has been long established, and the existing woodland to the west and north would be unaffected by the quarry.

A Tree Protection Plan is now submitted to protect the remaining trees adjoining the quarry site and the restoration plan would seek to replace the recently removed trees as the restoration takes place. A further condition is recommended ensuring the restoration planting occurs timeously, following completion of quarrying operations and the Remediation Strategy would see a good density of indigenous planting in a reasonable density averaging 1 plant per m², in randomly arranged self-groups of 10-15 using indigenous shrub and tree species. Whilst no direct replacement of trees historically felled can be pursued, the proposed site restoration would see in time a substantive re-introduction of trees to this locality.

Between the proposed tree protection works and proposed remediation planting, it is considered that the proposals now accord with DP1 and EP7.

Impact on the Environment/Biodiversity (DP10 and DP1)

A number of assessments have been carried out relating to mitigation and environmental protection inclusive of the Site Specific Management Plan, which gives comfort that matters such as site drainage, dust, noise, blasting and other potentially harmful effects of mineral extraction. As a relatively small quarry, with phasing focussed mainly on depths of extraction rather than geographic areas, staged restoration may prove difficult other than at the boundaries of the site.

Notwithstanding the remediation which is discussed below, and the conditions imposed to ensure a biodiversity and habitat enhancement at the end of the quarries operation, the quarry currently sits on an existing/former small quarry, agricultural land and former strip of mixed woodland that was cleared in advance of the planning submission and trees surveys. The site therefore has limited existing habitat benefit and as proposed, the opportunity to create a water feature, wetland habitat, grassland and provide substantive amounts of shrub/tree planting will be welcomed in an area with few ponds or lochs.

The site does not lie within any environmental designation, would be well contained and not affect the water course to the west, and as such would not result in any environmentally unacceptable impact.

Condition 3 is recommended, following on from the submission of a Restoration Strategy, to ensure that the specific planting, enhancement and aftercare measures referred generally in the Restoration Strategy are realised. SEPA made a similar request and therefore the condition ensures that biodiversity and habitat enhancements will be realised in accordance with minerals DP10 c) and associated policy guidance on quarry restoration.

As the archaeological assessment concluded there were no features within 500m of the site, and the proposals would not be prominent from any standing heritage assets so no further consideration or consultation was required.

Disturbance and disruption from noise, blasting, dust and potential pollution of water (DP1, EP12 and EP14)

A Hydrological & Hydrogeological Appraisal was submitted with the application which seeks to control water from the quarry across the phases of extraction. This has been assessed by both SEPA and Moray Flood Risk Management and they are content with the proposed arrangements. The proposals are designed to ensure that any water flows back into the quarry, and it is noted that sump within the quarry is proposed for both phases. It is noted that there are no water courses within the proposed quarry area. Submitted assessments and control measures also seek to minimise any run off of material being washed or carried from the site. The proposal would therefore comply with the requirements of policy EP12 Management and Enhancement of the Water Environment.

Similarly the below measures identified by the applicant are the subject of conditions and would ensure compliance with policy EP14 Pollution, contamination and hazards and various good practice measures contained within PAN 50 Control of Environmental effects of Surface Mineral Workings (including its appendices) are being adopted.

The applicant submitted a Noise Management Method Statement which proposes the following dust control measures:-

- Site roads will be kept smooth and in good condition and at moderate gradients to reduce vehicle noise.
- Site plant machinery and the operator's delivery/collection vehicles will be maintained in good condition, serviced and well lubricated to avoid unnecessary vehicle noise, and run as quietly as possible.
- Vehicles and machinery will not be left with the engine running for long periods of time when not in use.
- All ancillary plant such as generators, compressors and pumps and any processing plant to be used on site will be positioned so as to cause minimum noise disturbance.
- A 4m-high bund will be constructed in the northwest of the site in the stockpile area and will reduce the transmission of noise from the site.
- If noise is identified as becoming a nuisance to neighbours, further consideration of appropriate mitigation works will be undertaken.

The applicant submitted a Dust Management Method Statement which proposes the following dust control measures:-

- Trucks and lorries carrying material must be covered.

- The access track to the site will be surfaced with hard core.
- Site roads will be kept in a clean condition.
- If required, haul roads and stockpiles will be sprayed with water using a mobile bowser.
- All vehicles used within the site will have exhausts pointing away from the ground.
- Vehicle speed restrictions will be imposed.
- Any new bunds formed will be seeded with grass.
- Blasting will be carried out in a manner so as to minimise the production of dust.
- Activities most likely to generate dust will be avoided on dry windy days.

The submitted Local Residential Amenity Impact Management Method Statement (LRAIMMS) proposing similar mitigation will be supplemented by the condition sought by the Environmental Health Manager regarding noise, blasting and the provision of an additional bund at the south east corner of the site. The LRAIMMS also commits to operate the quarry such that;-

- vehicles will be run as quietly as possible with no engines being left on unnecessarily; and
- restoration of the site will aim to improve upon the existing habitats and provide greater ecological and amenity value. (This is addressed elsewhere).

The quarry is located over 200m away from the nearest residences, and it is not anticipated that there would be any substantive dust issues.

The Environmental Health Section have also assessed the proposed blasting and noise assessments, and subject to the additional noise bund being provided, the quarry will be operated in accordance with the requirement of policy DP10 Minerals b) where quarries should be operated with appropriate mitigation and environmental protections in place. Various conditions are recommended to protect the amenity/structure of neighbouring buildings. Conditions are recommended to ensure the measures listed above are carried out.

Access (DP1 and PP3)

Policy DP1 (ii) requires safe and suitable transportation links to be provided for new development. The proposed quarry will take access onto an existing public road, then directly onto the A96, and conditions and passing places have been proposed to ensure that this access is capable of serving the proposed quarry and other exiting users (including notably Backmuir lorry park).

As identified in the submitted Transport Statement and Supporting Statement the intent is to supply material to the Moray West onshore transmission works that would pass the site, which might see much of the material taken from the quarry along private haul roads adjacent to the cable route, but does acknowledge that if the quarry was not selected then Simmers Contracts Ltd. would still seek to extract approximately 25,000-30,000 tonnes per annum.

Whilst the access onto the Trunk Road has good visibility and is used to catering to HGV's, conditions recommended by both Transport Scotland for wheel washing facilities and Moray Council Transportation Section for a passing place, visibility splays and some re-surfacing work ensure the access is wholly capable of accommodating the proposal.

Restoration and aftercare proposals

Policy DP10 seeks assurances that former quarries are restored to high stand of design including seeking to maximise environmental improvements. The proposed restoration strategy gives an outline of how this would be achieved and proposes a further aftercare inspection to ensure the various habitats have become established.

As the proposal is for mineral extraction, pragmatically biodiversity benefits will only be realised at the conclusion of the 2 phases of quarrying and for a quarry if this size it is likely to be upon exhaustion of the quarry. The proposal incorporates various mitigation measures relating to its operation and includes tree protection measures for the remaining trees in the locality, it considered that (subject to the conditions recommended) the application is acceptable.

The proposed restoration plan, inclusive of drawing 137521/8105 illustrates and commits to the end provision and management of a water feature, wetland habitat, grassland and scrubland in the submitted restoration plan with an adequate density of indigenous shrub/tree planting. A condition is recommended ensuring that the restoration will maximise the environmental and biodiversity of the resultant landscape and similar to SEPA's position where they are content with a condition requiring a "Site Specific Restoration Plan" a condition is recommended providing more detailed assessment of the restoration plan in terms of species, number and position of landscaping and other measures will ensure full compliance with policies EP2 and DP10 (c).

The Extractive Waste Management (Scotland) Regulations 2010

The applicants have submitted a Site Specific Management Plan addressing Extractive Waste, which identifies there would be no extractive waste stored on the site, with the former agricultural land overburden being suitably stable and inert for retention in the bunds for future landscaping and restoration. SEPA have also reviewed this plan and are satisfied with its conclusions. The Site Specific Management Plan effectively constitutes the waste management plan for this quarry as required under the above legislation.

Recommendation

In light of the above and subject to imposition of the aforementioned conditions, the proposal will not give rise to any significant visual, landscape or environmental impacts. The application is considered to represent an acceptable departure from policy ER4 and compliant with all other relevant development plan policies. Conditional approval is recommended.

REASON(S) FOR DECISION

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

The proposal accords with the provisions of the Moray Local Development Plan 2020 (subject to the conditions recommended) and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP2 SUSTAINABLE ECONOMIC GROWTH

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

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

DP10 MINERALS

a) Safeguarding Mineral Reserves

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

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

b) Mineral Operations

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

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

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

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

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

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

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

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

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.

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.

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.

EP16 GEODIVERSITY AND SOIL RESOURCES

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Applications should minimise this release and must be accompanied by an assessment of the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

Where areas of important geological interest are present, such as geological Sites of Special Scientific Interest (SSSI) or Geological Conservation Review (GCR) sites are

present, excavations or built development can damage, destroy and/or prevent access to the irreplaceable geological features. Development should avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, geological interests, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including, if necessary, measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on areas of peat and/or land habitat will only be permitted for these uses where:

- a) The economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) It has been clearly demonstrated that there is no viable alternative.

Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, movement, degradation or erosion of peat is avoided and proposes suitable mitigation measures and appropriate reuse.

Commercial peat extraction will not be permitted