

19/00320/PPP
22nd March 2019

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

Comments:

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

Procedure:

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

Recommendation Grant Planning Permission - Subject To The Following:

Conditions/Reasons

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason(s) for Decision

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

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

List of Informatives:

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

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

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

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

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

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

THE TRANSPORTATION MANAGER has commented that:-

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

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

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

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

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

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

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

Construction Environmental Management Plan

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

A Controlled Activities Regulations (CAR) construction site licence (CSL) is required for management of surface water run-off from a construction site, including access tracks, which is more than 4 hectares, is in excess of 5km, or includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°. We understand this site is approximately 2.58 ha so a CSL will not be required. However the proposals will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all

reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment.

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

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

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

Regulatory requirements

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

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

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

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



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

19/00320/PPP

Site Address:

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

Applicant Name:

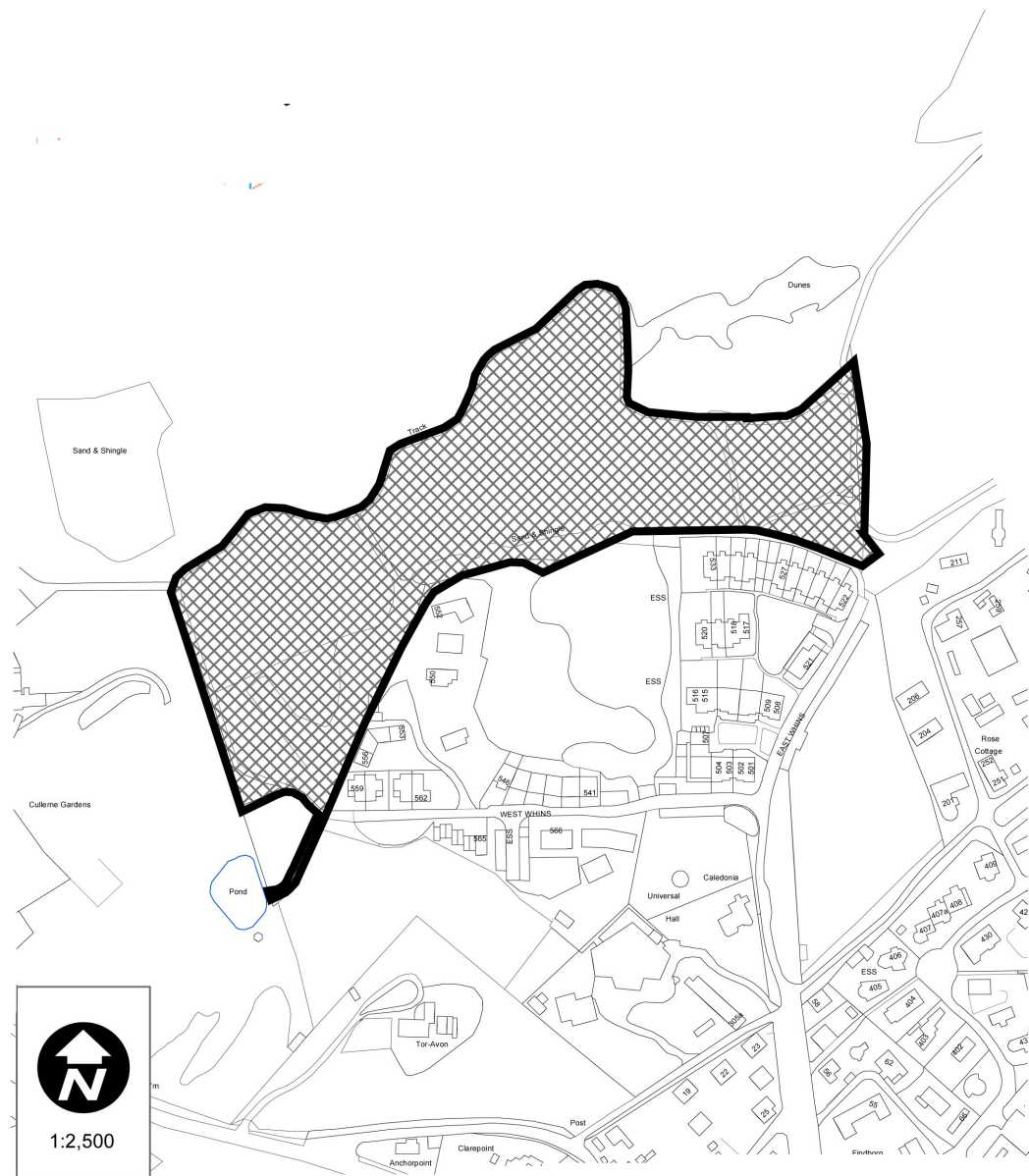
Duneland Limited

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Location Plan

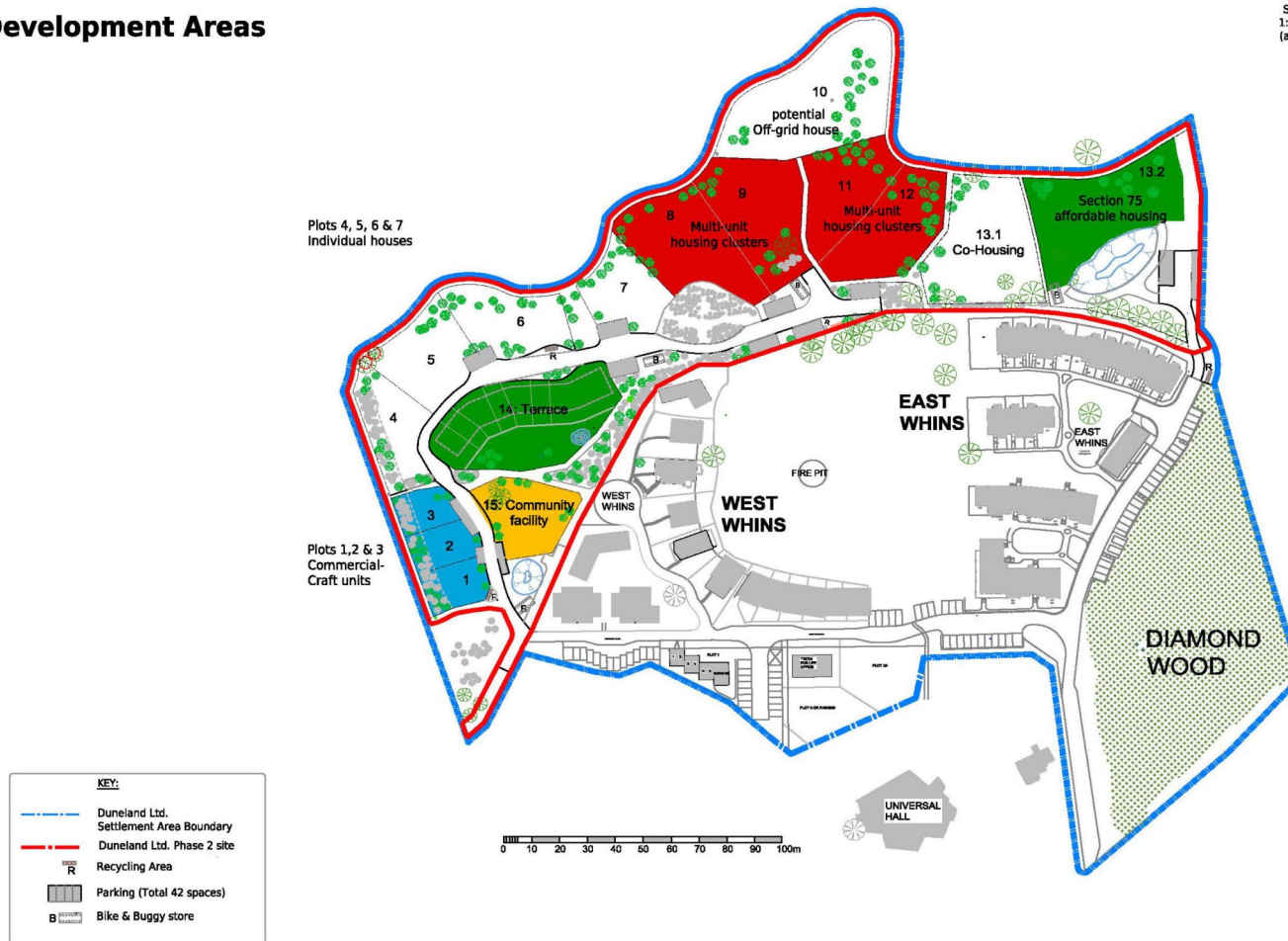


Site Location



DUNELAND LTD. PHASE 2

Development Areas



2.4.1 Layout

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

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

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









PLANNING APPLICATION: 19/00320/PPP

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

THE PROPOSAL

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

THE SITE

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

HISTORY

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

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

ADVERTISEMENT

- Advertised for neighbour notification purposes.

CONSULTATIONS

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

The key planning issues are set out below:

PP3 Placemaking and IMP1 Developer Requirements

Layout

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

Design

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

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

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

Car Parking

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

Connectivity

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

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

PP2 Climate Change

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

H1 Housing Land

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

H8 Affordable Housing/ H9 Housing Mix/Accessible Housing

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

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

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

E2 Local Nature Conservation Sites and Biodiversity

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

E5 Open Spaces

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

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

Moray Local Development Plan 2020 Proposed Plan

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

Environmental Health Manager- No objection.

Environmental Health, Contaminated Land – No objection.

Moray Access Manager – No objection.

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

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

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

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

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

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

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

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

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

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

Findhorn Community Council – Object.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Scottish Water – No objection

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

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

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

Disruption to wetlands including peatlands

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

Environmental enhancements/placemaking

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

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

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

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

OBJECTIONS – REPRESENTATIONS

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

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

In support

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

Objections

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

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

The main points of the representations are:

Issues raised in opposition to the development

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

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

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

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

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

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

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

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

Issue: Compliance with MLDP 2020

Comments: On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Plan was approved as the “settled view” of the Council and minimal weight will be given to the Proposed Plan, with the 2015 MLDP being the primary consideration. Only following a Public Examination process (similar to an Inquiry) would the MLDP 2020 be presented to the Scottish Government and permission sought for its formal adoption.

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

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

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

Issue: A formal EIA should have been provided

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

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

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

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

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

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

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

Issue: Impact on birds including 'red list' species

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

Issue: Impacts on amphibians and insects

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

Issue: Impact on lichen beds

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

Issue: Impact on red squirrels

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

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

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

Issue: Complex ecological mitigation will be difficult to enforce.

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

Issue: Coastal erosion already impacts on the dunes

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

Issue: Flood Risk

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

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

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

Issue: Loss of open space

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

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

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

Issue: Air pollution

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

Issue: Impact of construction noise and vibration and construction traffic over an extended period.

Comments: Piecemeal development of the site is likely to extend the period during which construction works takes place. Nuisance arising from building works is principally a matter for the Environmental Health Section. An informative is recommended that highlights the need to be mindful of legislation and good practice on construction working hours, noise and vibration. The conditions recommend a Construction Environmental Management Plan which will help mitigate the impact during the construction period.

Issue: Lack of a strict design code will lead to a wide range of building styles

Comments: It is recommended that design is a matter specified in the recommended conditions. Further applications will be guided by the submitted masterplan. It is acknowledged that the document is not a prescriptive design code and indeed encourages 'innovative and interesting' design solutions. However, it does contain guiding principles on matters such as the use of materials and sustainable construction processes which will ensure a degree of coherence to the overall development and broad adherence to development plan policy. The Park is characterised by a mix of modern and traditional designs and an overly prescriptive design code is not considered necessary in this setting.

Issue: Potential for overlooking of existing properties

Comments: The impact on the amenity of existing properties will be fully considered as detailed proposals come forward through a further application or applications. This representation is speculative, given the application is in principle only.

Issue: The Park already has already had an impact on the village of Findhorn and the proposed development will compound this.

Comments: The site is within the settlement boundary of Findhorn as identified in the current MLDP but a clear distinction between the Park and the rest of the village will remain. The proposal is considered to be sensitively sited and will not adversely impact on the wider village. Both have existed in situ for many years.

Issue: Affordable housing is in a less desirable location

Comments: The indicative site layout contained in the masterplan shows a dedicated area for affordable housing on plot 13.2 in the far eastern portion of the site. A separate access is also proposed to this part of the site. It is recommended that details of the affordable housing provision would be dealt with as part of a further application. The developer has indicated that eight of the required ten affordable units would be provided

on plot 13.2 and the other two units would be provided elsewhere on the site. The Council's Housing Section is content with the proposals that have been presented to date. The affordable housing is largely grouped together in one portion of the site. This reflects the intention that each plot identified on the indicative masterplan could potentially be developed by different developers. It would therefore be difficult to provide affordable housing throughout the development but it will be fully integrated with the wider development and the Park. The proposed location is no less desirable than any other part of the proposed site.

Issue: Lack of detail on proposed groundworks

Comments: A preliminary geotechnical report which includes sections through the site has been submitted as part of this application. More detailed information would be required as part of a further application or applications.

Issue: Lack of a pedestrian link to the rest of the park

Comments: The submitted site plan indicates several pedestrian links to the existing development at East and West Whins and to the existing paths to the north and west of the site. The Transport Assessment states that these follow existing desire lines. It is recommended that details of pedestrian connections are sought as part of a further application or applications. It is also recommended that improvements to the pedestrian route between Findhorn and Forres are sought by condition.

Issue: The submitted traffic survey was done at a quiet time of year

Comments: This Transportation Section takes account of a number of variables when assessing the submitted information. The unique nature of the setting is part of the assessment and this was taken into account when the parking standard for the development was agreed with the Council's Transportation Section. It is noted that the agreed standard is still higher than that applied to previous developments.

Issue: Lack of parking is already an issue in the Park

Comments: The application is assessed on the basis of the parking required for the development proposed. In this instance the development seeks to encourage active travel through the provision of good pedestrian links and cycle stores and an appropriate parking standard has been agreed with the Transportation Section. The roads within the Park are private and parking issues are therefore a matter for the landowner and relevant stakeholders.

Issue: The requirement to provide parking is at odds with the ethos of the Park

Comments: The development seeks to encourage active travel through the provision of good pedestrian links and cycle stores. This is reflected in the parking standard that has been agreed with the Transportation Section. Parking exists elsewhere throughout the foundation.

Issue: The development will bring more traffic into The Park

Comments: The development will bring more traffic into The Park. The roads within The Park are private and therefore do not fall within the remit of the Council's Transportation Section. The Transportation Section is content that the junction between The Park and the public road is adequate to serve the additional development.

Issue: No street lights or pavements are proposed

Comments: The roads within the development will remain private. Provision of this kind would therefore be at the discretion of the developer.

Non material considerations

Issue: Loss of views

Comments: The impact on amenity has been assessed but loss of views by individual households is not a material consideration

Issue: Potential for second home ownership

Comments: The control of plot sales is a matter for the developer, and would not constitute a material planning consideration.

Issue: The land was purchased to preserve the dunes.

Comments: This is a matter for the developer and the relevant landowners.

Issue: Developer is more concerned with profit than creating a high quality development.

Comments: This is a matter for the developer and the Findhorn community.

Issues: The values of the community will be diluted by a further influx of people.

Comments: This is a matter for the developer and the Findhorn community.

Issue: The sale of plots will be restricted by the developer.

Comments: The control of plot sales is a matter for the developer.

Issue: Existing sub-standard accommodation within the park should be converted instead of building more housing.

Comments: Existing accommodation is not part of this application. The application must be assessed on the basis on which it is presented.

Issue: Existing paths and other areas are not suitable for disabled people

Comments: This is an existing situation and as such not covered by the current application. The developer should consider access for all when bringing forward detailed proposals for the site. The separate Building Warrant process will consider the issue of disabled access also, beyond the provisions of accessible housing through the planning process.

Issue: Additional development will place undue pressure on existing communal facilities within The Park.

Comments: This is a matter for the relevant stakeholders.

Issue: Additional development will put further pressure on the private road through The Park and greater maintenance costs.

Comments: This is a matter for the relevant stakeholders.

Issue: Removal of gorse last year

Comments: It is understood that some gorse was removed last year to form fire breaks. This is not part of the current application and was investigated. No planning permission was required as the vegetation removal that did occur did not constitute development.

Representations in favour of development

- Community based housing and business scheme in line with the ethos of the community

- Supports vibrancy of the community
- Example of sustainable development
- The development will be surrounded by dune-land
- The development is of an appropriate density
- The proposals have been altered to reflect some of the concerns raised
- Infrastructure has been designed to keep with the whole Duneland development
- The area was already extensively disturbed when the airbase was built.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the “settled view” of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

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

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.

- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

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

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019.

In this case the proposal is not subject to a designated site.

The main issues are considered below.

Compliance with policy (H1 & IMP1)

The application site is not a designated housing site but is white land within the settlement boundary of Findhorn as identified the MLDP. It is therefore being assessed as ‘windfall site’ as referred to in H1 Housing Land. Policy H1 states that new housing on windfall sites is acceptable where the proposal does not adversely impact on the surrounding environment, the site can be adequately serviced, the site is not designated for an alternative use and the requirements of policies PP2, PP3 and IMP1 are met. The proposed development relates well to the existing development at East and West Whins and would effectively round off development in this part of the settlement as identified in

the MLDP. The dune ridge to the north provides containment for the site and is a natural boundary for this part of the settlement. The application site is discrete area between the existing development at East and West Whins and the wider dune land. Development on this site represents a logical conclusion of the development in this part of the settlement that can be achieved without encroaching on the more open and wild land beyond. Furthermore, the development will not undermine the setting of the immediately adjoining development or the wider settlement.

In accordance with policy H1 it is demonstrated below that subject to conditions any adverse impacts on the surrounding environment can be adequately mitigated and the site can be adequately serviced and suitable infrastructure provided. The site is not designated for any alternative use and as is discussed in the relevant sections below the proposal meets the requirements of policies PP2, PP3 and IMP1. Subject to conditions and assessment identified below the proposals is considered to accord with policy H1

Impact on the Natural Environment (E2, E3, E4 & IMP1)

The proposal has been screened under Environmental Impact Assessment (EIA) Regulations as part of the planning application process, and not considered to constitute a development requiring EIA but a comprehensive Ecological Assessment has been provided. The survey highlights potential impacts on ground nesting birds, amphibians and lichen. The report also includes a programme of mitigation. This includes some general mitigation and enhancement measures including the removal of non-native species on site, provision of information packs for new residents and the restoration of dune land off site along with more targeted mitigation measures. In respect of ground nesting birds it is noted that both yellowhammer and linnet which are both on the Birds of Conservation Concern 4 (BoCC 4) Red list due to their conservation status were found on site however desirable alternative habitat is available elsewhere in the dunes. Ground nesting birds are protected by the Wildlife and Countryside Act. An informative is recommended advising the developer of their obligations under the Act. Pre-construction checks will be required to ensure no nests are disturbed. The proposed scheme of green infrastructure will provide alternative habitats including ponds and gardens which will be attractive to amphibians and insects. The submitted SUDS drainage details note that no gully pots will be used in order to prevent toads and other animals being trapped.

It is also acknowledged that there will be an impact on lichen on the site. However, a lichen translocation bed and other measures such as minimal tree planting on-site and dune regeneration off-site are proposed. It is recognised that the development will have an impact on biodiversity and the wider natural environment. However the proposed mitigation and enhancement measures will serve to counter the impact and are considered to be acceptable in this case. In line with the advice from SNH a condition is recommended requiring the mitigation measures set out in appendix 9 of the ecologist's report to be implemented in full. Subject to the recommended conditions the proposal is considered to be acceptable in accordance with policies E2 and E3.

While the application is in principle only, a scheme of 'green infrastructure' has been proposed. It is recognised that the nature of the dunes and the ecosystems they support is such that extensive tree planting is not suitable in this location. However, some tree planting is proposed along plot boundaries both for privacy and dune stabilisation. A green corridor is to be provided along the boundary with Cullerne Gardens to the west and a wildlife corridor is to be formed along the southern boundary linking Cullerne Gardens in the west to Wilkies Wood in the east. Tree removal on the site is to be kept to a minimum

and the gorse to the north is to be retained. The current proposals are indicative only but a condition is recommended that would require these proposals to be carried forward into further applications. This will ensure that the development is effectively assimilated into the surrounding landscape and that the intended biodiversity and amenity benefits are provided. This will ensure compliance with policies E4 and IMP1.

The site is immediately adjacent to the Findhorn and Burghead Coast Area Great landscape Value (AGLV). It will be important to protect key views and prevent any adverse impact on the AGLV. This will form part of the assessment of further applications, but it is not considered that development of this nature, within the settlement boundary would cause any degradation of the AGLV designation.

In line with the comments from SEPA it is recommended that a Construction Environmental Management Plan is sought by condition. This will cover issues such as storage of materials, management of waste and construction phase SUDS. It is recommended that a CEMP is sought for the whole site and thereafter for individual plots. This will ensure that each phase of the development is carried out in a manner that protects the environment and prevents pollution.

Layout & Siting (H1, IMP1 & E5)

An indicative layout of the site is included within the Masterplan. This layout shows development running east to west across the site with larger plots to the north. This broadly reflects the layout of the adjacent development at East and West Whins and effectively rounds off the development within the settlement boundary contained in the MLDP. It is recommended that the overall layout of the site and the layout of individual plots are matters specified in condition, but the general layout presented in the masterplan is acceptable. A condition is recommended that would require a comprehensive layout of the site to be submitted and agreed before proposals for any individual elements could come forward. This would allow the planning authority to retain control of the development and ensure it is developed in a coherent manner even if the site is developed in a piecemeal fashion by different developers. If an application for a detailed layout including elements such as roads and shared Surface Water SUDS Drainage was approved it would allow the developer to proceed with work on the shared part of the scheme which would facilitate other parts of the development.

An initial Geo-technical report has been provided in support of the application. This found that the site is unstable and significant further work will be required before any development can take place. Earth works will be required to reduce the gradient of existing slopes and slope stabilisation measures will be required to stop future movement. Details of the required earthworks and slope stabilisation work will be required as part of a further application or applications.

Policy E5 requires a 15% open space allocation for new developments of this scale. Given the size of the site and density of development proposed this is considered to be achievable. The Masterplan identifies a large communal garden along with other green spaces and landscape areas. It is recommended that a condition (condition 3) is attached requiring confirmation of the open space provision as part of a further application or applications. This will ensure that the development complies with policy E5.

The submitted layout identifies three commercial units (plots 1-3) and one plot (15) for an unspecified community use. These elements would all be assessed in detail as part of a

further application or applications. These proposals are in line with the current mix of uses in The Park and would be compatible with the largely residential development around it. The Masterplan indicates that the three commercial units would be used for small offices or studios. A condition is recommended to restrict the use of these units to class 4 or Class 6 (as defined by The Town and Country Planning (Use Classes) (Scotland) Order 1997). This would restrict the use to offices (other than financial or professional services), research and development or light industrial processes of a type that would typically be found within a residential area (class 4) or storage and distribution (Class 6). Under the General Permitted Development Order changes between class 4 and class 6 uses are permitted without planning permission. It is considered that such uses would be appropriate in this setting and could be accommodated on site without adversely impacting on the amenity of existing or future residents. The use of the proposed community facility is not defined. This could take the form of a building for some type of community use or may be a playpark or similar. A condition is recommended that would make clear that this plot is for community use only and cannot be used for residential or commercial purposes.

Design and materials (PP3 & IMP1)

It is recommended that design and materials are matters specified in conditions. The precise details of all houses and commercial units will be assessed as part of a further application or applications. The submitted Masterplan includes a design code which supports the innovative and interesting designs that reflect the design principles of existing development within The Park without being overly prescriptive. The masterplan indicates that buildings should be limited to a maximum of 1½ storey and a condition to this effect is recommended. It is noted that the masterplan proposed that new housing be positioned and laid out so as not to break the line of the dune ridge but this has not been recommended in conditions, as definition of how such a line of sight would be an imprecise requirement to place in a condition. The Masterplan also contains guidance on the use of materials and sustainable construction methods. All detailed proposals will be assessed against the policy and guidance in force at the time. It is anticipated that the development will produce a range of novel responses to the topography of the site and the context of development within the Park. In this setting this is considered to be acceptable and a stricter design code is not considered to be necessary in this case.

Residential Amenity (IMP1)

All future detailed applications must fully address the impact on residential amenity as required by policy IMP1 Developer Requirements. All buildings must be sited and designed in a manner that does not adversely impact on individual or communal amenity. Development that would result in overlooking or loss of privacy will not be supported. It is recognised that there will be some impact on amenity during the construction phase however this will be for a limited period only. An informative is recommended reminding the developer of the responsibilities in relation to construction working hours, dust and vibration during the construction phase. This is primarily the responsibility of the Environmental Health Section. It is noted below that a Construction Phase Traffic Management Plan will also be sought to ensure that construction traffic is effectively managed and does not cause undue disruption.

Access and Parking (T2 and T5)

The site will be accessed using the existing access to the public road from existing Findhorn Foundation junction. The development will connect to the existing internal roads at the east and west of the application site but no through road is proposed. No additional access to the public road is proposed as this is not considered necessary as part of this development. A Transport Assessment (TA) has been submitted which found that the existing junction at the public road is capable of accommodating the additional traffic associated with the development. This will ensure safe entry and exit to the site in accordance with policy T2. It is noted in response to representations regarding fire safety that an emergency access plan is also provided within the TA. This identifies two points of access that could be used in an emergency if the main route was blocked. The roads within the foundation are private and the roads proposed through the development will also remain private. The impact of the development on these private roads and their management and maintenance are matters for the landowners and relevant stakeholders. The access arrangements are considered to be acceptable for the purposes of the development proposed.

The application seeks to encourage active travel and it is noted that cycle parking and pedestrian routes are identified throughout the site. In addition a condition is recommended that would require the existing 2m path from the junction with the public road to the existing pedestrian crossing to 3m and widening and deepening the existing pedestrian refuge to 3 x 3m. These improvements to the existing public pedestrian and cycle route will enhance safe options for active travel to and from the site in accordance with policy T2 Provision of Access.

Notwithstanding the developer's commitment to active travel parking provision has been shown on the site. The final parking layout would be agreed as part of a further application or applications. A condition is recommended that sets out parking standards that have been agreed. These require 0.8 spaces for units of 2 bedrooms or less, 1.5 spaces for 3 bedroom units and 2 spaces for 4 bedroom units Up to 2 beds. The clusters will be assessed on the same basis with 0.5 spaces for any bedroom over 4. The commercial units will require 1.5 spaces each. This parking rate has been agreed with the Transportation Section and reflects the nature of the development and its relationship with the rest of the foundation. The proposed parking levels are considered to be sufficient for the proposed development and the nature of the development is such that additional informal parking could take place without interrupting the movement of traffic. It should be noted that as the roads within the foundation remain private parking enforcement would be a matter for the landowner and other stakeholders. Subject to the recommended condition the parking proposals are acceptable and accord with policy T5 Parking Standards.

It is recommended that a Construction Phase Traffic Management Plan (CPTM) for the overall site and individual plots will be sought by condition. This will ensure that construction traffic is effectively managed and does not result in any undue disturbance for existing residents. The proposals would therefore comply with the various relevant transportation policies as described above.

Provision of Affordable Housing (H8)

Policy H8 requires that 25% of the total number of housing units on any development are affordable housing. In this instance 38 houses are proposed and therefore 10 affordable units are required. The plans indicate that eight units will be provided on plot 13.2 in the east of the site. It is understood that a developer and funding stream has been identified

for this element of the scheme. The draft proposals are acceptable to the Housing Strategy and Development Manager in terms of the proposed means of delivery and tenure but these details would have to be formalised by means of a further application or applications. The additional two affordable units will have to be provided elsewhere within the site or by some other process. No proposals for these two units are contained in the current application. A condition is recommended that will require the details of all the affordable housing to be agreed when ten units (affordable or otherwise) are proposed or an application for the tenth unit is submitted. Thereafter half the affordable housing would be required on completion of 15 units on the site and the rest on completion of 36 units. This would not preclude earlier delivery of the affordable housing. For the avoidance of doubt the affordable housing element would have to be considered as part of a further application or applications. The recommended condition will ensure that affordable housing is timeously provided in accordance with policy H8 Affordable Housing.

Provision of Accessible Housing (H9)

Policy H9 requires that 10% of the non-affordable housing units are built to accessible standards as set out in the relevant supplementary guidance (SPG). The SPG further requires that at least 50% of the accessible units must be delivered as a single storey house with no upper floor accommodation. Twenty eight private units are proposed therefore three accessible units are required and two of these must be single storey. No details of how these requirements will be met have been provided at this stage where the application is in principle only. A condition is recommended that would require details of the accessible housing provision to be provided where ten or more private housing units are proposed or when the tenth such unit is proposed and for the accessible units to be provided prior to the completion of the 15th private housing unit. This would not preclude the earlier delivery of the accessible units. For the avoidance of doubt the details of the accessible housing would have to be approved as part of a further application or applications. The recommended condition will ensure that accessible housing is timeously provided in accordance with policy H9 Housing Mix/Accessible Housing.

Drainage, Flood Risk and Water Supply (EP5, EP7 & EP10)

The site does not appear on SEPA maps of coastal and river flooding but parts of the site are identified as being at risk of surface water flooding. It is recommended that surface water drainage is a matter specified in condition but a Surface Water Management Plan and a Sustainable Urban Drainage System (SUDS) maintenance schedule have been provided. This document demonstrates how surface water can be managed in accordance with local and national guidance. The proposals include two new SUDS ponds which will also provide new habitats and biodiversity enhancement. Permeable paving and soakaways are also proposed. Moray Flood Risk Management has no objection to the proposals subject to minor adjustments to the proposals which are reflected in the recommended conditions. The surface water arrangements for individual parts of the development will be considered as part of a further application or applications. Any detailed proposals that come forward should be in accordance with the details submitted as part of this application. Subject to the recommended conditions the proposals will ensure that that surface water is effectively managed and that development does not increase the risk of flooding on site or elsewhere. The proposals accord with policies EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) and EP7 Control of Development in Flood Risk Areas.

The development will be connected to the public sewer and water supply. Scottish Water has no objection to the proposal but it is the responsibility of the developer to secure a connection to public utilities. The proposal accords with policies EP5 and EP10 Foul Drainage.

Sustainability (PP2)

In accordance with policy PP2 information has been provided to highlight the measures taken in relation to issues identified in the Council's Supplementary Guidance: Climate Change. The supporting information includes details of green infrastructure and biodiversity mitigation and active travel is addressed through the provision of cycle parking and connections to routes in the wider development. More detailed information would be provided as part of a further application or applications but the supporting information makes clear that sustainable materials and construction techniques will be used throughout the development. Modern and innovative designs will also be encouraged. This will allow the development to be adaptable to meet the changing needs of occupants and could also respond to the changes of climate change. Information on SUDS has been provided but it is recommended that this is a matter specified in condition.

Overall, the supporting information demonstrates that the development meets climate change objectives in so far as they are applicable to this development and on this basis the proposal is acceptable and complies with policy PP2 Climate Change.

Archaeology (BE1)

The site is close to the location where a hoard of Bronze Age metal objects was found. Due to the potential for unrecorded archaeology within the site it is recommended that a condition is attached requiring a programme of archaeological works. A properly implemented programme of works will ensure that the site will not adversely affect any archaeological assets. Subject to the recommended condition the proposal will accord with policy BE1 Scheduled Monuments and National Designations.

Developer Obligations (IMP3)

Policy IMP3 seeks contributions where development has a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity. Following assessment including consideration of the Council's adopted Supplementary Guidance: Developer Obligations, obligations have been sought in relation to a proposed extension to Kinloss Primary School, extension of Forres Health Centre, additional dental chairs, a reconfiguration of pharmacy outlets and a 3G pitch at Forres. The developer is aware of the obligations and it is recommended that this is dealt with by legal agreement in the event the application is approved.

Conclusion and Recommendation

The proposal accords with policy. The impact on the natural environment has been fully assessed and appropriate mitigation is proposed. It has been demonstrated that the development can be sited, designed and serviced in a manner that is in keeping with the surrounding development but without any unacceptable or significant adverse impact on the amenity of the surrounding area.

Overall the proposal is acceptable and accords with policy. It is recommended that the application is approved subject to conditions.

REASON(S) FOR DECISION

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

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

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Moray Local Development Plan 2015 - Material Consideration

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

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

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

Primary Policy PP3: Placemaking

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

Developments should;

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

Policy ED1: Development of New Employment Land

The formation of new industrial estates, or business related development will require to satisfy the following requirements. Where appropriate, further details will be contained in site designation texts in settlement statements.

Road Access: Junctions with the public road and internal service roads should be built to Moray Council standards for adoption, and provision made for on site and off site parking. Layout proposals should provide for pedestrian and cycle links and provide options for linking with public transport services (eg by provision of bus stops/laybys/shelters as deemed appropriate).

Drainage: All foul drainage must connect to the public sewer, with surface water drainage incorporating appropriate sustainable urban drainage (SUDS).

Landscaping: Requirements for individual sites will be specified in more detail in the relevant settlement designation. Proposals should address issues such as screening;

noise barriers; treatment at boundaries/frontages; general visual appearance of the site. Details for maintenance arrangements will be required for landscaped areas.

Design: Where site frontages are highly visible (eg onto a main road, or town gateway site) a high standard of design for front elevations; layout of yard; storage areas; parking must be a consideration.

Designing Out Crime: New estates should be designed so that they provide deterrents to crime, by ensuring sufficient lighting, planting and boundary treatments. Consultation will be carried out with Police Scotland for new proposals. Examples of best practice will be provided to applicants at pre- application stage.

Natural Environment: Provision should be made to ensure appropriate protection and enhancement of the natural environment, and integration with natural heritage on adjacent lands.

Waste Management: Provision should be made for the collection, separation and management of waste materials.

Policy H1: Housing Land

Designated sites

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

Windfall sites within settlements

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

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use
- d) The requirements of policies PP2, PP3 and IMP1 are met.

Housing Density

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

Policy H8: Affordable Housing

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

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

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

Policy H9: Housing Mix/Accessible Housing

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

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

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

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

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

Policy E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura site may be approved where;

- a) there are no alternative solutions; and

- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

National designations

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

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

Policy E2: Local Nature Conservation Sites and Biodiversity

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

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

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

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

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

Policy E3: Protected Species

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

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

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

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

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

Policy E4: Trees and Development

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

Policy E5: Open Spaces

Safeguarding Open Spaces

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

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

Provision of new Open Spaces

Quantity

New green spaces should be provided to the following standards;

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

Quality

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible

- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function
- Support the principles of Placemaking policy PP3.

Allotments

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

Policy BE1: Scheduled Monuments and National Designations

National Designations

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

Local Designations

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

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

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

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

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

Surface water from development should be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS).

Drainage systems should contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

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

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

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

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

Policy EP7: Control of Development in Flood Risk Areas

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

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

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

- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
- Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

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

Policy EP8: Pollution

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

Policy EP9: Contaminated Land

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

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

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

Policy EP10: Foul Drainage

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

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

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

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

Policy EP13: Ministry of Defence Safeguarding Areas

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

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

Policy ER2: Development in Woodlands

All woodlands

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Protected Woodlands

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

Tree surveys and new planting

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

Policy T2: Provision of Access

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

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

- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

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

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

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

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

Significant travel generating proposals will only be supported where:

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

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

Policy T5: Parking Standards

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

Policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks

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

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

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or

- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy IMP1: Developer Requirements

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP2: Development Impact Assessments

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

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

Policy IMP3: Developer Obligations

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

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

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

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

R2: Duneland

This area extends to 2.85 hectares and has planning consent for residential use.

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;

(i) Character and Identity

- Create places that are distinctive to prevent homogenous 'anywhere' development.
- For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
- Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.
- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.

- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi-functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect;
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.

- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

(v) Biodiversity

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

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor
- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardized.
- Dead-end streets/cul-de-sacs will only be selectively permitted on rural edges or where topography dictates. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Roundabouts must be designed to create gateways and contribute to the character of the overall development.

- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.
- (d) Masterplans have been prepared for Findrassie (Elgin), Elgin South, Bilbohall (Elgin), and Dallas Dhu (Forres) and are Supplementary Guidance to the Plan. Further Masterplans will be prepared in partnership for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/ Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. A peer review organised by the Council will be undertaken at the draft and final stages in the masterplan's preparation. Following approval, the Masterplans will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH.

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

PP3 INFRASTRUCTURE & SERVICES.

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

- a) **Development proposals will need to provide for the following infrastructure and services:**
- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
 - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
 - iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

- iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

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

vii) Compromise the economic viability of bus or rail facilities.

c) Harbours.

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

d) Developer Obligations.

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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

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

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

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

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.

- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 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.
- i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
 - c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
 - d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
 - e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
 - f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
 - g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
 - h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
 - i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.
- iii) **Water environment, pollution, contamination.**
- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).

- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP2 HOUSING.

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

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

b) Piecemeal/ individual plot development proposals

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

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

c) Housing density

Capacity figures indicated within site designations are indicative only. Proposed capacities will be considered through the Quality Auditing process against the

characteristics of the site, character of the surrounding area, conformity with all policies and the requirements of good Placemaking as set out in Policies PP1 and DP1.

d) Affordable Housing

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

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

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

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

e) Housing Mix and Tenure Integration

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

Proposals must demonstrate tenure integration and meet the following criteria;

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

f) Accessible Housing

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

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

BUSINESS & INDUSTRY

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

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

- b) **Business Parks.**

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

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

- c) **Industrial Estates.**

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

- d) **Existing Business Areas.**

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

- e) **Other Uses.**

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

f) Areas of Mixed Use.

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

g) Rural Businesses and Farm Diversification.

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

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

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

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

h) Inward Investment Sites.

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

Proposals must comply with Policy DP1 and other relevant policies.

EP1 NATURAL HERITAGE DESIGNATIONS.

a) Natura 2000 designations.

Development likely to have a significant effect on a Natura 2000 site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura 2000 site may be approved where:

- i) There are no alternative solutions; and

- ii) There are imperative reasons of over-riding public interest including those of a social or economic nature; and
- iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations.

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

- i) The need for development is one that is possible for SNH to grant a license for under the Regulations (e.g. to preserve public health or public safety).

- ii) There is no satisfactory alternative to the development.
- iii) The development will not be detrimental to the maintenance of the favourable conservation status of the species.

e) Other protected species.

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

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

EP2 BIODIVERSITY

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

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

Proposals for 4 or more housing units or 1000 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 which incorporates a Biodiversity Plan, that they have included habitat creation in the design of the development. This can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

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

EP5 OPEN SPACE.

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

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

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

- Be sited and designed to minimise adverse impacts on the principal function of the space and the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance; and
- Demonstrate that there is a clear excess of the type of ENV and the loss of the open space will not negatively impact upon the quality, accessibility and quantity of open space provision and does not fragment green networks (with reference to the Moray Open Space Strategy Supplementary Guidance, green network mapping and for ENV4 Sports Area in consultation with SportScotland) or replacement open space provision of equivalent function, quality and accessibility is made.

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

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

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

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

b) Green Infrastructure and Open Space in New Development.

New development must incorporate accessible multifunctional open space of appropriate quantity and quality to meet the needs of development and must provide green

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

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

i) Accessibility Standard.

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

ii) Quality Standard.

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

Accessible and well connected.

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

Attractive and Appealing Places.

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.

- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

Promotes activity, health and well being.

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

Safe, Welcoming and contributing to Character and Identity.

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

iii)Quantity Standard.

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

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

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

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

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

EP8 HISTORIC ENVIRONMENT.

a) Scheduled Monuments and National Designations.

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

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

b) Local Designations.

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.

a) Flooding.

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

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

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

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

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

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

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

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

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

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

- Civil infrastructure and most vulnerable uses.
- Additional development in undeveloped and sparsely developed areas, unless

a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flows).

- New caravan and camping sites.

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

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

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

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

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

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

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

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if

appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant), nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 104). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP13 FOUL DRAINAGE

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

- Systems must not have an adverse effect on the water environment.

- Systems must be designed and built to a standard which will allow adoption by Scottish Water.
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS.

a) Pollution.

Development Proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

b) Contamination.

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

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

c) Hazardous sites.

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

EP15 MOD SAFEGUARDING.

Development proposals must not adversely impact upon Ministry of Defence safeguarding operations. Details of consultation zones for Kinloss Barracks and RAF Lossiemouth and development types which will be subject to consultation with the Defence Infrastructure

Organisations are available from Moray Council. The outer boundaries of the zones are shown on the Proposals Map.