



Planning and Regulatory Services Committee

Tuesday, 01 March 2022

SUPPLEMENTARY AGENDA

The undernoted reports have been added to the Agenda for the meeting of the **Planning and Regulatory Services Committee** to be held at **Various Locations via Video-Conference**, on **Tuesday, 01 March 2022** at **09:30**.

BUSINESS

6a) Planning Application 21/01402/AMC

3 - 56

Report by Appointed Officer

Approval of Matters Specified in Conditions 3-11 13-16 18 19 22-24 25(c)-(d) and 26-29 on planning consent 18/01046/EIA to construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network from the vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm, Keith, Moray AB55 5PH for Moray Offshore Windfarm (West) Ltd

6b) Planning Application 21/00304/APP

57 - 94

Report by Appointed Officer

Amended approved house types approved under ref 18/01209/APP from 16 private homes to 15 affordable homes on Plots 44 to 62 South Glassgreen, Elgin South, Elgin, Moray for Springfield Properties PLC

| | | |
|-----|--|----------------------|
| 6c) | Planning Application 21/01615/EIA | 95 - 144 |
| | Report by Appointed Officer South western extension of cobble and sand quarry at Lossie Forest Quarry, Morayfor Tennants (Elgin) Ltd | |
| 6d) | 2100739APP_Redacted | 145 - 198 |

WARD 02_17

21/01402/AMC
18th October 2021

**Approval of Matters Specified in Conditions 3-11 13-16
 18 19 22-24 25(c)-(d) and 26-29 on planning consent
 18/01046/EIA to construct onshore electrical
 transmission infrastructure comprising of a cable
 transition jointing bay underground cable circuits
 construction of substation to south of Keith with further
 connecting cabling to allow connection with existing
 transmission network From The Vicinity Of Redhythe
 Point In Aberdeenshire Council Area To Whitehillock
 Farm, Keith, Moray AB55 5PH
 for Moray Offshore Windfarm (West) Ltd**

Comments:

- Application relates to a previous National level Planning Permission in Principle (PPP) under National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network. However, as this application is for Approval of Matters Conditioned pertaining to that PPP no further statutory pre-determination hearing is required.
- One representation received.

Procedure:

- Application to be considered at a meeting of the Planning and Regulatory Services Committee as it forms part of previous national level development previously considered at committee level.
- A financial contribution to the compensatory planting fund has been made. This will supplement the compensatory planted approved under planning application 21/01561/AMC.
- The neighbour notification advert does not expire until 28 February and any additional representations received will be reported verbally.

Recommendation - Grant planning permission – Subject to the Following:**Conditions/Reasons**

1. Notwithstanding the submitted details, prior to the commencement of any development, a detailed Phasing Plan, Access Strategy and detailed Construction Programme for the development shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority. The Phasing Plan Access Strategy and Construction Programme shall include the

details of the all proposed routes for construction traffic and abnormal load deliveries and the locations of all proposed access points on the public road network, along with the timing of works at each location on the cable route.

Thereafter, all works shall be completed in accordance with the approved Phasing Plan and Construction Programme.

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

2. The planning permission hereby granted for the proposed development shall be carried out only in accordance with the approved Phasing Plan permitted by Condition 1 and the details, including detailed drawings (and other supporting information), shall previously have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority in line with the matters specified for that phase of the development. These drawings and details shall show the matters specified in Conditions 3 and 4 below.

Reason: In order that detailed consideration can be given to the matters specified prior to the works commencing on each phase of the development.

3. In pursuance of Condition 2 above, for each phase of the development for which details are to be submitted for approval, the required details shall be:
 - a) Detailed drawing of the proposed temporary access routes for the phase and details of the number and size of construction vehicles using the access routes for that phase of development;
 - b) Detailed drawings of the improvements required to the public roads utilised by construction traffic and any abnormal load deliveries for the phase, which shall include but not be limited to the provision of new passing places, road widening and edge strengthening, all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with Moray Council specification;
 - c) Detailed drawings of the proposed access locations onto the public road for construction vehicles for the phase, including the required visibility splays, access specification and construction details, details of all earthworks and drainage provision and/or drainage diversion, details of proposed fencing/gates, signage and any required temporary traffic management, along with details of reinstatement works for any temporary access;
 - d) Details of the locations of all cable and haul road crossings within that phase of the development and the proposed works associated with the crossings, including but not limited to, the means of cable crossing e.g. directional drilling or open trench, means of access to works areas, details of the haul road crossings and any required temporary traffic management, and details of required reinstatement works;
 - e) Details of diversion routes for local footpaths during the construction period and associated signage (to be agreed with the Access Manager);
 - f) Detailed drawings of the locations of all cable joint access points, including their proximity to the public road and any public road drainage, and details of any temporary fencing or other measures to protect the users of the public road during the construction period;

- g) A Construction Traffic Management Plan (CTMP), the details of which must include, parking provision for staff and loading/unloading, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required;
- h) 'Before' road condition video and joint surveys.

Thereafter, all works shall be completed in accordance with the approved details and with the Construction Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

4. In pursuance of Condition 2 above, for each phase of the development where there is a requirement for Abnormal Load deliveries for which details are to be submitted for approval, the required details shall be:
 - a) A detailed survey of the Abnormal Load delivery route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
 - b) Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any construction and abnormal load traffic shall be completed;
 - c) Abnormal Load Traffic Management Plan, details of which must include the methods of dealing with large and/or abnormal delivery vehicles, vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network;
 - d) Evidence of the completion of an Abnormal load trial run(s) undertaken for the delivery route. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.

Thereafter, all works associated with the Abnormal Load Deliveries shall be completed in accordance with the approved details and the Abnormal Loads delivered in accordance with the Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

5. Prior to commencement of development on any phase of the development, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
 - a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been

completed and agreed by the developer or their representative and the local Roads Authority, including a commitment to the undertaking of joint 'before' and 'after' road condition surveys, to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 1 will be met.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

6. At the start and end of each phase (as per condition 1) 'before' and 'after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

7. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 - 1900 hours, Monday to Friday and 0700 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In order to ensure the development minimises nuisance and disturbance to neighbouring properties.

8. The developer shall implement in full the management, monitoring and mitigation provisions contained within the Construction Environmental Management Plan (CEMP) supporting document as they pertain to noise, vibration, dust, air quality and artificial lighting. For the avoidance of doubt, the supporting document is titled "Moray Offshore Wind Farm (West) Limited. OnTI Cable Route CEMP. Dated 3rd September 2021, Revision : 02. Document Name : 8460005-DAD-MWW- REP- 000006."

Reason: In order to ensure the development minimises nuisance and disturbance to neighbouring properties.

9. The development must be carried out in accordance with the Private Water Supply Risk Assessment submitted in December 2021 inclusive of the proposed monitoring and mitigation. Where a supply is adversely affected by the works, short-term contingency arrangements shall be implemented and, where necessary, a permanent replacement adequate and wholesome supply shall be provided, e.g. connection to the public mains or provision of an alternative supply.

The cost of short terms contingency arrangements, repair and if necessary replacement costs for affected water supplies must be met by the applicant.

Reason: To ensure that an adequate and wholesome water supply to existing properties is maintained.

10. The development shall be carried out in full accordance with the approved Written Scheme of Investigation (WSI) (*OnTI Cable Route Written Scheme of Investigation 8460005-DAD-MWW-REP-000003 Revision 02, dated 3/9/21*) submitted in relation to condition 24 of application 18/01046/EIA and that the programme of archaeological works as set out in the WSI is to be carried out in accordance with the approved Written Scheme of Investigation. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use 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.

11. Unless otherwise agreed in writing with Moray Council as Planning Authority, further details relating to the mitigation and protection of private water supplies and Ground Water Dependent Terrestrial Ecosystems at the proposed construction compound close to and on the north side of the A96 must be submitted to and approved by Moray Council, in consultation with SEPA. This approval must be obtained prior to the construction compound at this location commencing and the mitigation and protection measures approved must be adhered to.

Reason: To allow for further consideration of the means of protecting the water environment at this specific location.

12. The approval of conditions granted is upon the basis that subject to the further conditions above (including those seeking modification and final detailed design/layouts for the CTMP) the mitigation and all other measures contained within the Cable Route Mitigation Statement, Cable Route Phasing Plan and Landscape Plan are fully complied with.

Reason: To ensure the ecology and environment of the surrounding areas are protected during construction works and to ensure the tree protection and targeted tree felling is complied with.

Reason(s) for Decision

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

The proposal complies with the relevant policies of the Moray Local development Plan 2020 and there are no material considerations that indicate otherwise. Subject to further conditions recommended, the application satisfies the requirements of the conditions sought to be approved.

List of Informatives:

TRANSPORT SCOTLAND has commented that:-

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

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

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

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

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

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to the commencement of deliveries or construction activity, a Section 96 Agreement under the Roads (Scotland) Act 1984 will be required to be approved between the developer and the Roads Authority. This is to ensure that the costs to repair any damage to the public roads as a result of the construction work traffic are met by the applicant.

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site

Checklist:

<http://www.moray.gov.uk/downloads/file68812.pdf>

RCC and Specification:

http://www.moray.gov.uk/moray_standard/page_65638.html

Before commencing development, 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 transport.develop@moray.gov.uk

The applicant is obliged to apply for road opening permit(s) in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing roads.permits@moray.gov.uk and reference to the following page on the Council web site

Road Opening: http://www.moray.gov.uk/moray_standard/page_79860.html

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

Any street furniture, which will need to be repositioned to enable the development, including deliveries to the development, shall be at the expense of the developer. Furthermore, any existing roadside ditch, which requires relocating, a pipe or culvert shall be agreed in advance of any works commencing at that location. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

The developer shall be responsible for any necessary diversion of any utilities or drainage present at the locations where works are to be undertaken.

The developer shall meet all costs of improvements to the road infrastructure, which are required as a result of the development, including any measures to enable the use of structures on the public road for construction traffic and abnormal load deliveries.

The developer shall meet all costs of removal and re-erection of road signage, which are required as a result of the delivery of the abnormal loads.

The developer shall meet all costs of diverting any footpath or cycleway during the construction period, including signage.

The developer shall be responsible for ensuring that surface/ground water does not run from the public road into the site

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

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority. Advice on the retaining structures/embankments can be obtained by emailing structures@moray.gov.uk

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.

SCOTTISH WATER has commented:-

A review of our records indicates that the proposed activity falls within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. The River Deveron supplies Turriff Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. In the event of an incident occurring that could affect Scottish Water we should be notified immediately using the Customer Helpline number 0800 0778 778.

Scottish Water have produced a list of precautions for a range of activities. This details protection measures to be taken within a DWPA, the wider drinking water catchment and if there are assets in the area. Please note that site specific risks and mitigation measures will require to be assessed and implemented. These documents and other supporting information can be found on the activities within our catchments page of our website at www.scottishwater.co.uk/slm

The fact that this area is located within a drinking water catchment should be noted in documentation. Also anyone working on site should be made aware of this during site inductions and we would also like to take the opportunity, to request that 3 days in advance of any works commencing on site, Scottish Water is notified at protectdwsources@scottishwater.co.uk so we can make our operational teams aware there will be activity taking place in the catchment.

The SCOTTISH ENVIRONMENTAL PROTECTION AGENCY has commented that:-

We note dewatering may be required and will be managed in line with CAR. As such, any dewatering during excavations should be in compliance with CAR GBR 2 and GBR 15 (see SEPA's A Practical Guide: https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf. Abstraction of groundwater in quantities greater than 10m³/day will require a CAR registration or licence depending on the scope and duration of the works.

Further details of regulatory requirements and good practice advice, for example in relation to private drainage, can be found on the regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team at: gs@sepa.org.uk

| LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT | |
|--|---------------------------------------|
| Reference No. Version No. | Title/Description |
| 84600006-DAA-ITP-MAP-000002 | Location plan |
| 84600006-DAD-MWW-REP-001 | Cable route crossing point - overview |

| | |
|--------------------------|--------------------------------------|
| 84600006-DAD-MWW-REP-001 | Cable route crossing point 10 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 11 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 12 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing point 3 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing point 4 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 5 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 6 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 6 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 7 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 8 of 12 |
| 84600006-DAD-MWW-REP-001 | Cable route crossing points 9 of 12 |
| | Landscape plan figure LPDA08 |
| | Landscape plan figure LPDA10 |
| | Landscape plan figure LPDA11 |
| | Landscape plan figure LPDA12 |
| | Landscape plan figure LPDA13 |
| | Landscape plan figure LPDA14 |
| | Landscape plan figure LPDA15 |
| | Landscape plan figure LPDA16 |
| | Landscape plan figure LPDA17 |
| | Landscape plan figure LPDA18 |
| | Landscape plan figure LPDA19 |

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| | Landscape plan figure LPDA20 |
| | Landscape plan figure LPDA21 |
| | Landscape plan figure LPDA22 |
| | Landscape plan figure LPDA23 |
| | Landscape plan figure LPDA24 |
| | Landscape plan figure LPDA25 |
| | Landscape plan figure LPDA26 |
| | Landscape plan figure LPDA27 |



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
21/01402/AMC

Site Address:

From The Vicinity Of Redhythe Point In Aber-
deenshire Council Area To Whitehillock Farm
Keith

Applicant Name:

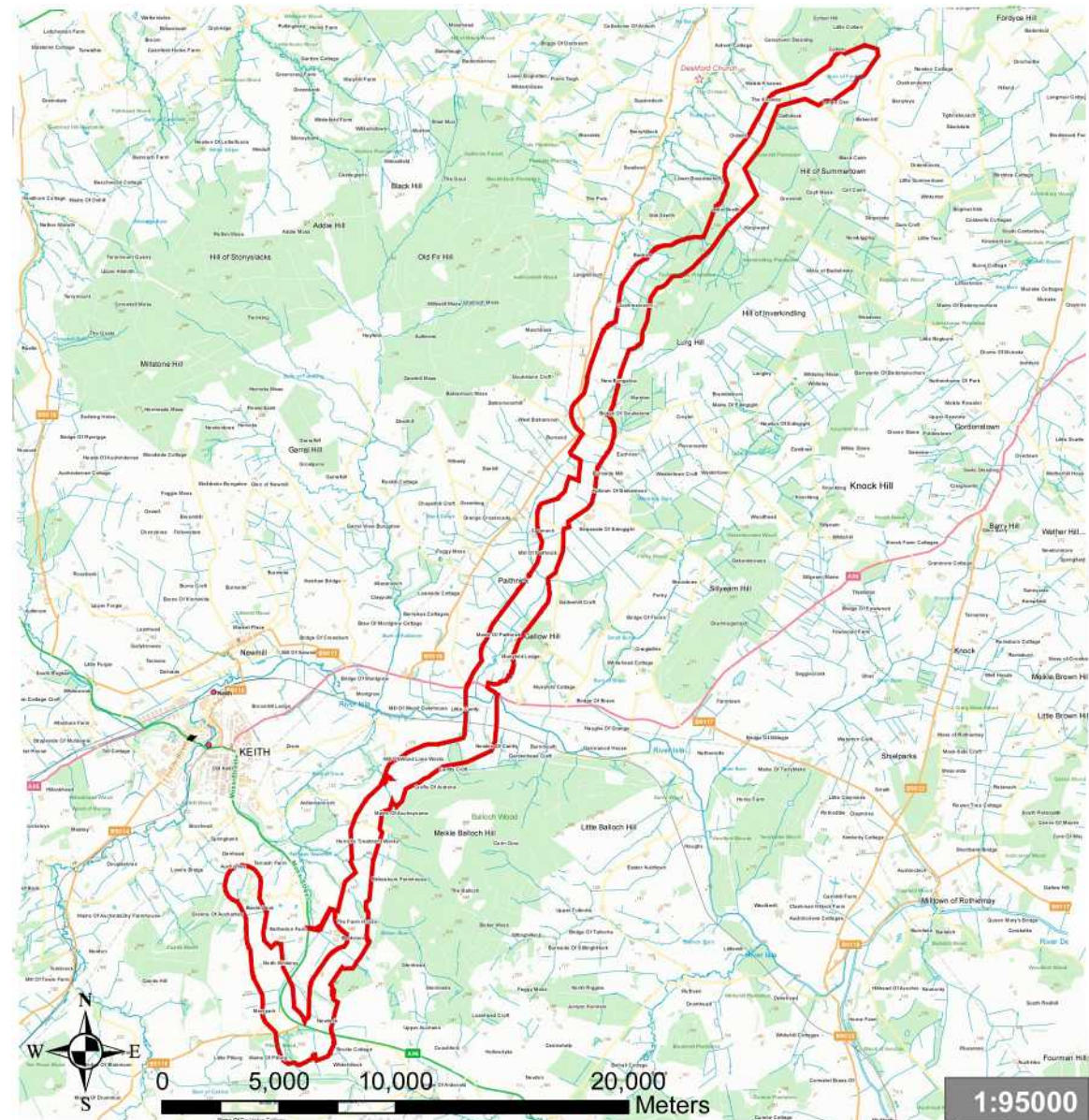
Moray Offshore Windfarm (West) Ltd

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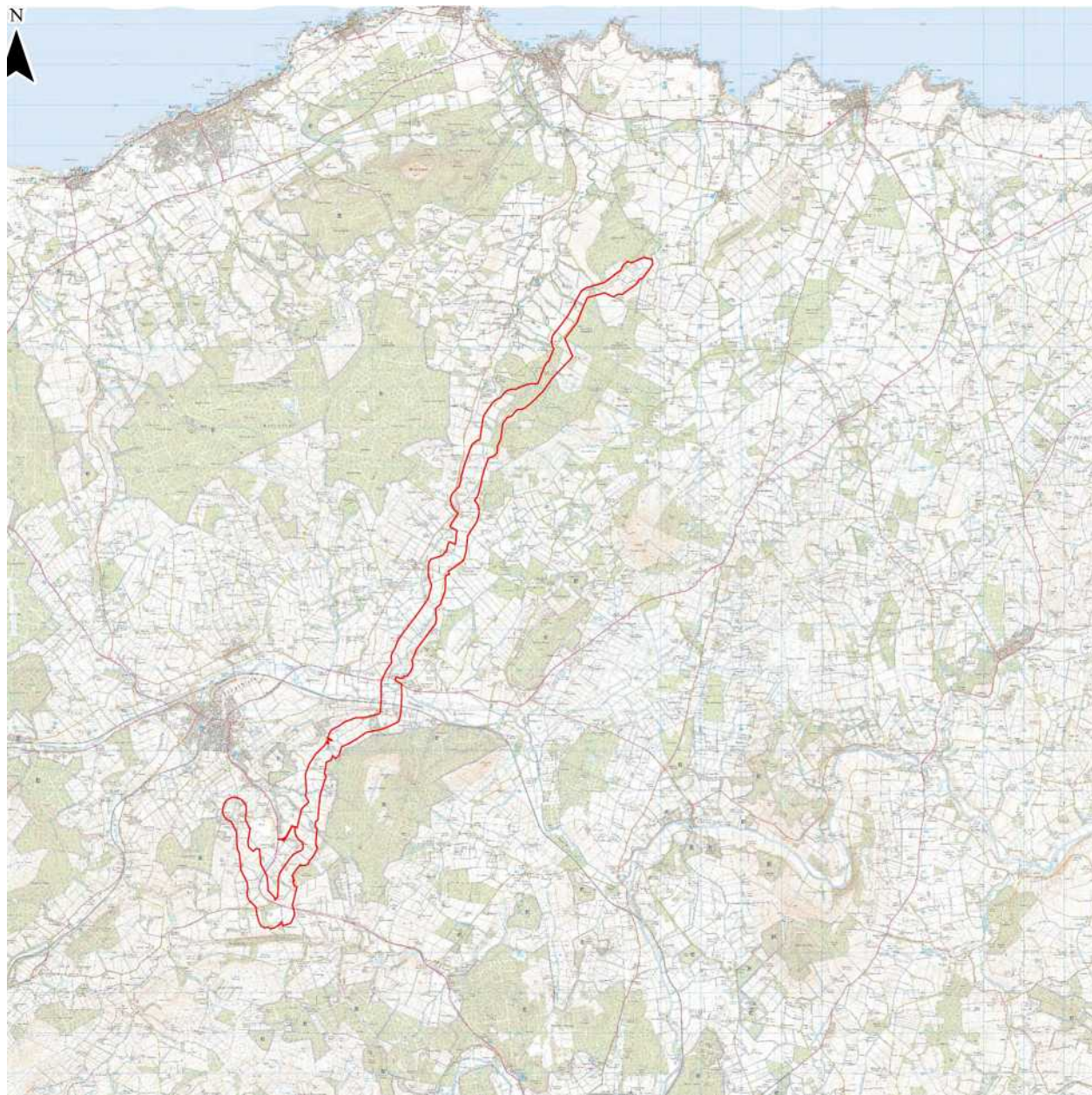
Location Plan



Cable Route



Working Area and corridor



Cable route looking southward over Isla Valley



PLANNING APPLICATION: 21/01402/AMC

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

- Construct approximately 24km of underground high voltage electricity line (2 cables in parallel). Installation of two 220kV (between landfall and the Moray West Substation) and 400kV (between the Moray West and Blackhillock substations) underground onshore export cable circuits. This cable route would tie in with the 23 Joint Bays per circuit over the whole cable route, approximately every 1.5km. The cables circuits will be length to be installed at a depth of approximately 1.2 metres (to top of ducting). The two cables will be laid 5m apart.
- The cables would be installed within ducting which would be laid into the ground. The cables would then be pulled through once the ground above had been restored. The entire length of cabling is split into smaller sections between joint bays. These will be points where cables are installed through the ducting. The cables would be pulled through these into position and would also allow access for maintenance once operational.
- Jointing bays will be below ground manholes, with no infrastructure above ground.
- 30m wide construction corridor to follow the cable route its entire length and where trees and woodland are removed, a wayleave to keep them from being replanted will be required. Otherwise the land could be returned to agricultural use.
- Temporary works will be required to facilitate the construction of the cable route, such as construction compounds and temporary accesses onto the public road along the cable route. A construction access corridor will need to be provided either side of the cable route during the laying of the cable to provide access to plant/machinery.
- At sensitive points where the cable route would cross a watercourse or classified road the use of a Horizontal Direction Drill to take the cable route beneath the obstruction.
- A combination of compensatory planting at the electricity substation site and financial payment to the Councils compensatory woodland planting fund, has been sought to address the removal of woodland.

THE SITE

- The cable route makes landfall to the coast at Sandend within Aberdeenshire, crossing into Moray east of Berryhillock, before heading south the proposed new substation site at Whitehillock Farm, immediately south of the A96. There after the cable will travel north-west up and link into the Blackhillock substation forming part of the national grid.
- The site predominantly crosses agricultural land, but will see the removal of approximately 6 hectares of woodland near Lurg Hill, from some commercial stands of wood and from field margins where the cable route would pass.

- The site is host to several designations or feature over its 23km length, including various archaeological assets, ancient and forest inventory woodland and flood areas. The site avoids any regional or national environmental designations and prime agricultural land.

HISTORY

18/01046/EIA - Planning Permission in Principle to construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds access track laydown areas and other associated works. This consent was granted by Moray Council on 3 December 2018 following a Pre-determination Hearing.

18/00954/S36 - Construct and operate an offshore windfarm, inclusive of two offshore electric substation platforms in the Moray Firth. This proposed offshore windfarm would comprise of 62-85 offshore turbines, to a height between 199m-285m (the taller turbines being at the lower density of 62 total) and would be located over 30km off the Moray Coast. The Moray Council was a consultee on the application, which was approved by Marine Scotland. Of note the Marine Scotland application identified the lifetime of the project as being circa 50 years, so it is clearly the intent that the onshore infrastructure and substation would be required for at least the same period.

17/01380/PAN - Proposal of Application Notice for proposed onshore substation and to onshore cable circuits. Moray Council responded on 25 September 2017 stating that the consultation measures proposed were considered suitable and no further consultation or notification was necessary.

17/00940/SCO - Scoping opinion for onshore transmission infrastructure landward of Mean Low Water Springs for Moray Offshore Windfarm (West). The scoping opinion was issued in August 2017 and included input from other consultees. This scoping opinion related to the development subject to application 18/01046/EIA.

Relevant current applications are:

21/01391/APP - Installation of underground electricity cables and associated development on land between Greenhill and Factors Park Plantation, Deskford, Cullen. A current re-routed section of the cable route (3.1km in length) is currently subject of a separate planning application, which had to be submitted under a separate fully approval of planning permission as it lies outwith the approved 'corridor' consented under 18/01046/EIA. If approved this length of cable route would dovetail back into the cable subject of this application. As this cable would exceed 132kV it constitutes a significant infrastructure development and defined under the National Planning Framework 3 and therefore constitutes a National level development in planning terms. This application was approved by at a Pre-determination Hearing on 10th Feb 2021.

21/01561/AMC - Approval of Matters Specified in Conditions 2-9 11-15, 18-20, 22, 24-29 on planning consent 18/01046/EIA to Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow

connection with existing transmission network from within the vicinity of Redhythe Point n Aberdeenshire Council Area to Whitehillock Farm Keith Moray AB55 5PH. While the site address relates to the whole site consented under 18/01046/EIA, this application focusses on purifying the conditions for substation phase of the development based near Whitehillock Farm at the southern end of the site. The submissions for 21/01561/AMC are common to those lodged for this application and notably the landscaping compensatory planting for the woodland lost on the cable route is proposed around the location of the substation at Whitehillock. This application was approved by Committee on 10th Feb 2021.

22/00067/S36 - Install a battery energy storage system (BESS) with associated infrastructure at Blackhillock Electricity Substation, Keith, Moray. This site partly covers the cable route currently proposed. This Section 36 application has only recently been submitted to the energy Consents Unit.

Of note the comparable cable application within Aberdeenshire linking the Moray section to the Moray West offshore windfarm to the coast at Sandend has been approved by Aberdeenshire Council.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised for neighbour notification purposes.

CONSULTATIONS

Private Water Supplies - Private Water Supply Risk Assessment acceptable, but a condition is recommended ensuring consistencies are in place.

SEPA - Content that all the suspensive conditions have been satisfied other than conditions 10 and 11 A further condition seeking specifically more detail on one construction compound near the A96 is sought, in terms of protection of private water supplies and Ground Water Dependent Terrestrial Ecosystems. SEPA content that a condition be used to clarify these last outstanding issue which then ensures compliance with conditions 10 and 11 of 18/01046/EIA. A condition is also recommended ensuring that any private water supplies on the cable route detrimentally affected will be restored.

Planning and Development Obligations - No developer obligation contribution required.

Environmental Health Manager - No objections subject to conditions further refining the contents of the CEMP and confirming the intended hours of construction activity.

Transportation Manager - Approve subject to conditions and informatives. Further definitive details of the temporary access works and crossing required.

Moray Flood Risk Management - No objection.

Scottish Government - Submission noted.

Transport Scotland - No objection subject to informatives.

Naturescot - Satisfied submissions in relation to condition 15 within the CEMP meet their requirements in relation to an Ecological Management Plan.

Aberdeenshire Council - No objections. Of note Aberdeenshire have determined the small section of cable route within Aberdeenshire from Sandend down to near Berryhillock in Moray. This was approved subject to conditions in November 2021 by the Banff and Buchan Area Committee.

Scottish Forestry - No objection to the proposed compensatory planting and contribution to compensatory payment.

Strathisla Community Council - No response at the time of writing the report.

Aberdeenshire Council Archaeology Service - The submitted details in relation to archaeology are acceptable, but the investigations will only be concluded once grounds works have been undertaken a condition is recommended.

Scottish Water - No objection but applicants must be mindful of the cable route proximity to Scottish Water abstraction. Letter containing advice passed to applicant.

OBJECTIONS-REPRESENTATIONS

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

[REDACTED]

For clarity, while one letter of representation has been received, each of the above convey their concerns in respect of their own properties Backmuir Farm, Greenwood House and Netherton Farm.

The objectors has identified from the e-planning portal list of suggested objection grounds the following concerns. This is further to their letter of representation.

- Contrary to Local Plan
- Drainage
- Dust
- Inappropriate materials/finishes
- Poor design
- Road access
- Traffic

The grounds for objection is summarised below:

Issue: Objectors believe it necessary to safeguard the future of agricultural productivity on land associated with and bordering the route but also to avoid any detrimental impacts that may prejudice future development potential. They consider that via the planning application process and particularly via any conditions imposed they seek to ensure no inadvertent issues arise between successive adjoining holdings along the route, and also that landowners adjacent to the route are protected. The proposal would sterilise agricultural land. Moray Local Development Plan 2020 seeks to protect agricultural land.

Comment: The focus of protection on agricultural land (Classes 1, 2 or 3.1) relates to prime agricultural land, and there is not general prohibition on the development of agricultural and rural land, unless it fall within some other designation of the Moray Local Development Plan 2020. The planning process would not treat any prejudice to future development potential as a material planning consideration. The planning application would need to be determined on the basis of current constraints, site circumstances and other extant planning matters. Development would not normally be resisted because of some blight to future potential on a site or nearby land.

Issue: The proposal would sterilise or jeopardise possible mineral extraction reserves, contrary to the aims of Moray Local Development Plan 2020 policy DP10 Minerals. Objectors are concerned that the proposed cable route would curtail their access to quarry mineral reserves upon their land. They consider that under policy DP10, the applicant should consider alternative routes for the cable to minimise the impact upon their land and assets.

Comment: Notwithstanding the development corridor for which permission is sought, following site restoration, the wayleave corridor affecting possible future quarrying will be approximately 30m and much less than applied for in the application. The extent to which any possible area for workings is there linear in fashion and limited across any one land holding where quarrying would more likely occur in one specific location. Policy DP10 refers to the safeguarding of existing workable mineral reserves/operations and it not understood that the proposed route would compromise any existing working quarries where reserved have yet to be exhausted. The policy is not intended to prevent development from occurring on land until such time as the landowner has exhausted any mineral reserve present and where the land host of the possible cable route has no active workings upon it. Nor can the planning system treat as material future possible mineral workings where none yet take place. The loss of land through compulsory purchase, would include consideration of possible alternative uses and differing land values, and it would be within that process that such a case should be made.

Issue: Construction Environmental Management Plan (CEMP) is insufficient and does not explain how the developer intends to safeguard the agricultural viability of the land affected.

Comment:- It is not the purpose of the CEMP to safeguard future land viability, but the CEMP should demonstrate how features such ground water effects will be mitigated, and where reinstatement works will allow for the use of the land to revert to agriculture unless set aside for jointing bays. It is understood that post development remediation will see as much of the land revert to its previous used as possible.

Issue: The submitted Construction Traffic Management Plan, makes minimal reference to the proposed upgraded access point that our client currently relies on for their agricultural and commercial operations.

Comment: While indicative access details have been given, the overarching content seeks to minimise disruption to other accesses in the area, and by its nature the focus of cable laying would be transient, meaning any disruption would be temporary. Further specific details are sought on the specific temporary site access points, but these can be adequately addressed by condition. The CTMP contains measures and best practice to minimise disruption to local traffic.

Issue: Concern that the nature of linear cable construction means that there are risks that plant and animal diseases could be spread between farm holdings and between individual fields. There is also a risk that tracking vehicles along the working width of the cable route could cause the spread of noxious weeds as the project progresses. The CEMP should be modified to include bio security measures.

Comment: It is speculative to presume that the development would spread animal disease or noxious weeds. This would not constitute a material grounds to refuse the proposals and matters such as livestock disease, if it were to occur would be dealt with under separate legislation. Whilst bio-security is an understandable concern, such matters would be addressed via separate agreement with landowners if development were to proceed, and also note the applicants response below with their intent to follow best practice from recommended by Scottish Agricultural College Consulting.

Issue: Concern the developer may see it is appropriate to import foreign material on to the site if it deems it necessary, heightening the risk of biological contamination.

Comment: While the applicant may import material, the submitted details also confirm the intent to backfill the cable trench with the materials taken from it. It is not considered that this matter would constitute grounds for refusal. See also the applicant's response below in relation to bio security.

Issue: The objectors refer to the development possible jeopardising or complicating possible future developments on their own holdings, such as potential wind energy, battery storage developments or reforestation of land after minerals had been extracted. A possible future data bank centre is also being considered on Netherton Farm. The applicant state their holdings have strategic potential for differing types of development that would contribute to national targets.

Comment: Planning permission for diverse uses may exist on the same land, and in most cases weight would be attached to any extant planning permission if in place at the time of determining a nearby planning application nearby. It is understood a battery storage proposal on Mr Davidson property at Netherton Farm, but that planning application has 20/01776/APP has been withdrawn and a recently submitted Section 36 application for a battery storage facility near Blackhillock is currently being considered by the energy Consents Unit. 22/00067/S36 would sit across the proposed cable route and the two might pass. As the current application for approval of matters conditioned, relates to consented PPP, which in turn relates to an approved offshore windfarm, a separate agreement would need to be reached by the landowner and the prospective developers as to which development might commence or if works can safeguard each projects transmission assets which both seek to tie into the Blackhillock substation. There is not application as yet for a data bank centre, and as such does not carry any material weight as a consideration. The land in question hosts no zoning or designation for the uses proposed, so little weight can be attached to the objectors' aspirations which have no status as planning consideration.

Issue: Permanent access is sought at Backmuir for construction purposes and then for future occasional inspection of the cable route. The location of the proposed access at

Backmuir will have negative effects on the ability of the landowners to enjoy their land and operate their agricultural and commercial enterprises without such restrictions.

Comment: The applicants seek the access directly off a public adopted road (U43bH) so the road is not exclusively for use by Backmuir Farm. The access onto the Trunk Road is also adequate. Neither Transport Scotland nor Moray Council Transportation Manager have opposed the possible access onto the U43bH. Of note conditions recommended seek further detail and a revised CMTP.

Issue: With rights of access thereafter along an access road to be permanently constructed over land at Backmuir which will also potentially impact upon the security of the existing enterprises operated at Backmuir as the topography and location of the proposed access will mean it is hidden from the yard.

Comment: It is speculative to presume that the proposed access would increase security risks. Following the construction phase, the access point would be used very occasionally.

Issue: The volume of construction traffic and plant movements on this site access will render this access unusable by the landowners; we highlight that there does not appear to have been any assessment undertaken and submitted as part of the application documents to consider the impact such volumes and weight of traffic will have upon the private historic stone built bridge over which all access will be taken.

Comment: This will be one of several construction access points into the cable route, and as an adopted road, the Transportation Manager has not objected to its use. The affected bridge is subject to routine inspection and monitoring by the Council as Roads Authority. The bridge is also used consistently by the objectors own HGV's. The finalised CTMP will provide specific details of the specific accesses and will ensure that disruption to existing road users will be considered and wear and tear agreements used to ensure the public road is not degraded excessively.

Issue: The Transport Assessment was carried out pre-Covid and working practices have now changed, with construction staff more likely to arrive on site in separate vehicles as one example.

Comment: A large construction compound is proposed to the south of Backmuir and it is likely that many construction staff would congregate there before going out on site. There are a number of construction accesses at the south end of the cable route, so it is unlikely that Covid will manifest in any great increase in traffic numbers.

Issue: Transportation conditions relating to planning consent 20/01251/MIN for a quarry at Backmuir Quarry should similarly implemented for the current application.

Comment: The two developments differ in that the quarry would see regular HGV movement over the course of decades using the junction onto the A96 from the minor adopted road. The current proposals seeks the use of this road for a temporary construction period alongside other construction accesses, and thereafter for only very occasional use. The Transportation Manager has not considered that such an upgrade is necessary for the Backmuir road.

Issue: The proposal has the potential to impact negatively on the potential drainage capacity of the land forming the application site. The cable route will potentially sever the existing network of drains upon the farm. A further condition should be attached to any permission ensuring mechanisms are in place to monitor the impacts of the development and to ensure that all necessary measures are in place to reduce and remediate impacts.

Comment: The proposed CEMP identifies that measure to protect any existing infrastructure on the cable route, which would include land drains. Generally speaking the

nature of the development will not see any great change to ground water along the length of the cable route, which will involve a very linear narrow intrusion into any one area.

Issue: The proposal will cause local changes to the profile of the land to the detriment of soil condition and structure. This will affect the Landowners ability to productively farm his land.

Comment: This a speculative objection and the intent is, where possible, once the cables have been backfilled to allow them to return to agricultural use. As the excavated soil will be used to back fill the trench from where it came, there should be no reason by productivity would be affected.

Issue: The proposal has failed to justify the proposed incursion onto the farm and has failed to demonstrate that an alternative access point is not viable.

Comment: The farmland has no prime agricultural land, not designation meaning it should be protected for alternative uses. The justification for approval of the cable corridor is that (notwithstanding land ownership issues) it will constitute substantial piece of energy infrastructure, contributing to renewable energy targets.

Issue: The proposal exceeds what is required by the developer.

Comment: This presumably relates to the extent of land sought for compulsory purchase by the applicant. The planning application site boundary is a separate matter from the extent of land sought by the developer to ensure the operation and any wayleaves for their development are obtained. The landownership issue is a separate matter to the securing of planning permission, as planning permission may be obtained on third party land.

The applicant has responded to the objection with the following comments.

References to 'we' in the below section are from the applicants perspective.

Objection 1: The proposal will seriously and irreparably affect the local management and operation of the farm without sufficient mitigation measures associated with safeguarding of surrounding agricultural operations.

In particular this objection relates to biosecurity concerns. Concerns have been expressed in the objection about the linear nature of the wider onshore installation works and the possibility of disease spread. The Applicant has discussed this matter at length with Strutt & Parker and has sought to provide comfort to Strutt & Parker's clients through proposed provisions in voluntary property negotiations and, in lieu of such voluntary property agreements, the offer of management arrangements as part of the ongoing compulsory purchase order process. The Applicant can confirm that it has entered into similar biosecurity protection arrangements with a large number of other landowners where relevant along the route of the onshore transmission works. The Applicant considers that this matter has been appropriately addressed and will be properly managed through landowner agreements. Nevertheless, the Applicant is happy to hereby clarify that it will apply best practice guidance as recommended by Scottish Agricultural College Consulting based in Elgin as is relevant for biosecurity protection in the context of the specific nature and location of the works.

In respect of possible future development proposals, again the applicant has discussed this matter with Strutt & Parker, their clients and 2 no. developers in respect of Harold Davidsons farm who we understand is considering up to 2 no. battery storage projects. The Applicant has sought to sensitively route its infrastructure through the relevant landholdings (based on the information which has been provided to it by the landowners at

the relevant points in time) and has identified an appropriate route which it is understood would allow for co-existence with the possible battery projects. Indeed this has been given confidence by last joint discussions with both proposed developers that if the battery storage project(s) were taken forward they could co-exist with Moray West.

Very little information on other proposals proposed over Philip and Symon Simmers holding has been disclosed. A potential battery storage location has now been indicated by the landowner's agent. As has been demonstrated over Harold Davidsons farm, with mutual co-operation the Applicants are confident their development and cable route will be able to co-exist.

Objection 2: The proposal will permanently affect the ability of the Landowner to develop his land and extract minerals from it.

As set out above the applicant has sought to limit the area of land affected by its proposals. It has also sought, where possible, to avoid areas which are (or are likely to become) important for mineral extraction. As noted, considerable engagement has already been made in this regard and will continue to seek to enable the Landowner interests and currently identified proposed developments to be accommodated in tandem with the Applicants project.

Objection 3: The proposal will detrimentally impact existing access routes used by those in the surrounds of the site without any sufficient upgrade works.

With the assistance of expert traffic management consultants, the applicant has submitted considerable and appropriate information on traffic numbers, routes, junction installation/upgrades and management measures which will be deployed. The Applicant is also in discussions with the Local Authority in relation to arrangements to ensure any abnormal wear and tear to the road network can be remedied. This information demonstrates that the proposals are safe and can facilitate the required construction works in a manner which will not unduly impact on current users. Per the ongoing Landowner discussions concerning both Netherton and Backmuir, the Applicant would maintain that proposed access routes are sympathetic to its understanding of Landowner interests including potential shared use by other advised proposed developers.

Objection 4: The proposal has the potential to impact negatively on the potential drainage capacity of the land forming the application site

The Construction Environmental Management Plan which we have prepared and submitted (and which we propose apply to the works forming part of this application) provides substantial and appropriate detail on the steps that will be taken to safeguard drainage and drainage capacity. Agreements have also now been put into place for a new upgraded water supply locally.

Objection 5: The proposal will potentially inhibit the availability of the site to accommodate nationally important development in the form of a proposed Data Centre on land owned by Mr Davidson.

The applicants have commented above on the various possible development proposals mooted in the objection. In relation to the proposed Data Centre, this was only raised very recently with very limited information provided by the landowners' agent. From initial cross

referencing with the location options provided it would appear these do not fall within the objectors ownership.

OBSERVATIONS

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

This Application for Matters Conditioned application (AMC) is not a stand-alone planning application but the second part of the two-stage planning permission in principle process, and relates solely to the site identified within the application documents (the electricity substation is addressed under a separate AMC application). The application specifically covers the abovementioned conditions for the cable route and associated works, and assessment is therefore restricted to assessing the detail of these conditions against the policies of the adopted Moray Local Development Plan 2020 (MLDP) and relevant supplementary guidance.

Background

The application is a follow on from the Planning Permission in Principle, which was a national development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, and as identified in the National Planning Framework 3. NPF3 advises that the development of any new onshore electricity transmission cabling of 132 kilovolts or higher forms part of the high voltage electricity transmission network upgrade. As this application seeks to approve and satisfy conditions of that earlier consent as an AMC a full a pre-determination hearing involving Members of the public and the applicant is not required.

The Scottish Government consented the 'Moray West' offshore windfarm several years ago and a 'corridor' for the cable route was approved in principle. (See history section).

The main issues are considered below:

While typically for an AMC application the definitive layout of a site would be anticipated, this application seeing a narrowing and refining of the 'corridor' in which the cables could be laid. Submitted plans show a definitive cable route through the site although a separate planning application 21/01391/APP (see history) has been permitted to re-routed section of cable route over a 3km stretch where the previously approved cable corridor has needed to be diverted.

From the planning permission in principle the following condition are now sought to be 3-11 13-16 18 19 22-24 25(c)-(d) and 26-29

Condition 3 & 27 sought various transportation requirements including abnormal loads deliveries, final site compound locations, cable road crossings, road improvements (adopted and Trunk), roads surveys and provision of a finalised Construction Traffic Management Plan CTMP.

Indicative and typical details of much the crossings, are submitted in the appendices to the CTMP. Further details are required to provide a definitive, rather than indicative CTMP. The submitted CTMP does provide much if the detail and methodology sought, but the conditions proposed will allow for further consideration of the finalised temporary access

points etc. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation requirements subject to the conditions recommended.

Condition 4 and 5 relate to the construction delivery and triggers requirements such as the need for 'wear and tear' agreements, control of visibility splays, diversion routes for paths and cycle ways, verge reinforcement and trial runs for abnormal loads.

These have been indicated in the supporting information and will need to be integrated into any final CTMP. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation requirements.

Condition 6 specifically sought to ensure off road temporary construction parking was provided.

The indicative construction compound layouts show adequate provision is intended for construction vehicles. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation requirements.

Condition 7 sought diversion routes for local footpaths and cycleways during the construction period.

The submissions should that any footpaths requiring diversion have been addressed within the detailed Cable Route Report and specific crossings plan. The cable route would cross a military road which is Right of Way, and one core path KT04 (Auchoynanie Path) and measures for temporary diversions would be in place. The submitted details therefore satisfy this condition and ensure compliance with MLDP 2020 policy PP3 Infrastructure and Services.

Condition 8 sought detailed to ensure no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development.

This would be an ongoing condition once development has commenced. The CTMP refers to keeping the public highway in clean order. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation requirements.

Condition 9 required any existing ditch, watercourse or drain under any access or passing place or holding area as a result of this development shall be re-routed or piped using a suitable diameter of pipe.

The CEMP refers to measure to protect existing infrastructure which would include drains and watercourses. Survey work into the various assets along the cable route has already been undertaken. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation requirements.

Condition 10 stated that the cable must seek to avoid various land subject of environmental constraints such as peat, groundwater ecosystems, flood risk areas and private water supplies.

The submitted Private Water Supply Risk Assessment, Construction Environmental Management Plan and Cable Route Mitigation Statement carry forward from the EIA Report undertaken as part of original consent. The cable route has sought for the most part to avoid any environmental constraints as part of the imbedded mitigation. A condition

is recommended by SEPA however seeking further detail on the one of the larger temporary construction compound will be developed to as to protect nearby by water supplies and the GWDTE features near the site. The proposal therefore complies with the policy DP1 Developer Requirements subject to the conditions recommended.

Condition 11 requires for each phase of development a Construction and Temporary Works Schedule.

This will form part of the finalised CTMP, and the schedule of where and when construction activity has been indicated in the submitted cable route phasing plans, which set out the order of development. Conditions are recommended to ensure that the Council as Roads Authority are aware precise phasing the development in terms of construction traffic. The submitted Cable Route Phasing Plan identifies the intention to develop the site in the following order.

- Phase 1: Establishing Site Compounds.
- Phase 2: Enabling Works.
- Phase 3: Horizontal Directional Drilling Works.
- Phase 4a: Cable Trenching and Duct Installation.
- Phase 4b: Cable Trench Backfilling.
- Phase 5: Joint Bay Excavation and Installation.
- Phase 6: Cable Installation and Jointing.
- Phase 7: Reinstatement of Joint Bays.
- Phase 8: Removal of Compounds and Final Reinstatement Works.

The applicants have presented a detailed and well thought out phasing plan for the development, which when married with the specific contents of the finalised CTMP will ensure a clear order of how development will occur. The proposal therefore complies with the policy DP1 Developer Requirements and DP1 Development Principles (ii) Transportation requirements.

Condition 13 and 19 submission required of a Construction Environmental Management Plan (CEMP) for each phase is required to be submitted including details of a Site Waste Management Plan. To be agreed in consultation with SEPA.

A Cable Route Construction Environmental Management Plan has been submitted. Extensive pre construction ecological surveys were also undertaken prior to submission of the current application. Moray Council and SEPA are satisfied with the submitted CEMP and condition is recommended to ensure adherence to the approved CEMP. This ensures compliance with MLDP2020 policies relating to protection such as EP1 Natural Heritage Designations and EP3 Biodiversity.

Condition 19 sought the inclusion within the CEMP consideration towards dust, vibration, air quality and noise. These matters have been addressed within the submitted CEMP.

Condition 14 required the imbedded and proposed mitigation as detailed in the original Environmental Impact Assessment Report for 18/01046/EIA.

The imbedded and proposed mitigation have been carried forward into the final cable route selection, and has resulted in a cable route that avoids and environmental designations, Prime Agricultural Land, and over the course of its 23km route is affecting only 8.6hectares of woodland. The various documents submitted with the current

application such as the CEMP, Cable Route Mitigation Statement, Cable Route Phasing Plan and Landscape Plan all seek to ensure the mitigation chapter from the 2018 Environmental Impact Assessment Report are carried forward to the implementation stage.

The mitigation covers a range of topics but most notably they seek to ensure environmental and wildlife impacts are minimised, or enhancement is achieved through the compensatory planting proposed. Policies EP1 Natural Heritage Designations EP2 Biodiversity and EP12 Management and Enhancement of the Water Environment of Moray Local Development Plan 2020 seek and require the mitigation being proposed, and accordingly subject to conditions these policy requirements are met.

Condition 15 requires pre-construction checks and surveys for protection of wildlife.

Submitted as part of the CEMP, the application also proposed an Ecological Management Plan, which has been accepted by Naturescot following consultation with them. Surveys submitted do identify that protected species are present and the mitigation proposed in terms of the imbedded and proposed mitigation should ensure compliance with policies DP1 Developer Requirements and EP1 Natural Heritage Designations which both require adequate protection for wildlife is in place.

Condition 16 requires a scheme detailing the quantity, type and location of compensatory tree planting to account for any loss of woodland.

A compensatory woodland scheme has been submitted, detailing the provision of additional compensatory planting near the proposed electricity substation (subject of application 21/01561/AMC). The remaining compensatory woodland requirement is being dealt with by a payment to Moray Council, for use by Moray Council and the Woodland Trust Scotland for other woodland provision elsewhere in Moray to satisfy the compensatory planting requirement. This is achieved via an upfront payment and a sum has been agreed with Woodland Trust Scotland of a sum of £12,000 per hectare (inclusive of several decades of forest management). This application, in conjunction with felling required for application 21/01561/APP for an associated 3km stretch of cable route has resulted in the loss of 8.68 hectares of most coniferous woodland. Further loss of woodland is being accounted for by the approved compensatory woodland planting at the propose substation AMC site (see history) is provided under application 21/01561/AMC.

On the basis of the above proposed compensatory planting is to be supplemented by payment of £39425.60 compliance with the policy EP7 Forestry Woodland and Trees.

Condition 18 sets limits on the hours of construction activity.

This condition is discussed in submissions and a condition is recommended by the Environmental Health Section defining the working hours proposed.

Condition 19 again refers to requirements of the CEMP as with Condition 13, but seeks it to include dust, vibration, air quality and noise considerations.

The submitted CEMP satisfies those requirements thus ensures compliance with MLDP2020 polices relating to protection such as EP1 Natural Heritage Designations and EP3 Biodiversity. The CEMP should also minimise the impacts of construction activity on any neighbouring properties.

Condition 22 ensures the protection or repair of private water supplies.

Further details around the protection of private water supplies have been submitted with the AMC application and following consultation with SEPA and the Councils Private Water supply officers within Environmental Health, the proposed mitigation is acceptable. A condition is recommended to ensure the proposed mitigation and protection of private water supplies is adequate. DP1 Development Principles seeks to ensure services are adequately protected. The proposed safeguards and further conditions recommended seek to ensure this occurs.

Condition 23 covers contaminated land investigations.

Ground investigations were conducted as part of the detailed Cable Route Report and measures are in place to address any contamination discovered within the CEMP. Given the predominantly rural undeveloped nature of the cable route it is not anticipated that contamination should be a significant issue.

The proposals and mitigation in place therefore to ensure compliance with policy EP14 Pollution, Contamination and Hazards.

Condition 24 states for each phase of the development a programme of archaeological mitigation including recording, monitoring and, or excavation as appropriate will to be undertaken in accordance with a Written Scheme of Investigation.

A Written Scheme of Investigation (WSI) has been submitted, which is acceptable, however it does not in itself allow the condition to be discharged, as it forms only one part of the condition requirement. A condition must remain in place until all archaeological works on site are complete, reported on, and any necessary post-excavation analysis agreed. Aberdeenshire Councils have recommended a condition, acknowledging the WSI submitted, but seeking to ensure post commencement the means of identifying, recording and protecting heritage assets is carried forward to the construction phase.

The submissions and proposed condition should be adequate to ensure compliance with the archaeological requirements of policy EP8 Historic Environment.

Condition 25 c, d seeks a Construction Phase Surface Water Management Plan. Parts a and b of this condition relate solely to the electricity substation.

A Construction Phase Surface Water Management Plan was submitted within the CEMP and sets out the measures to protect surface water. The proposed measures are acceptable to Moray Council and a condition regarding the CEMP is recommended to ensure it is implemented. A further condition seeking additional info in regards to surface water is sought for where once of the proposed construction compounds sits close to GWDTE location. This would ensure compliance with MLDP2020 policies relating to protection such as EP1 Natural Heritage Designations and EP3 Biodiversity.

Condition 26 Trunk road junction design to accord with Design Manual of Roads and Bridges (DRMB).

The proposed road works have been considered by Transport Scotland who have not objected but offered comments only confirming that any works on the Trunk Road must be

built in accordance with the DRMB. Separate approval is required from Transport Scotland to form accesses directly off the trunk road. The main focus of trunk road activity for the AMC application will relate to a temporary construction traffic seeking access of the trunk road and adding traffic to the trunk road. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Condition 28 states any additional signing or temporary traffic control measures required on the Trunk road to be approved by Transport Scotland.

The applicant have submitted detailed plans for the proposed access and CTMP relating to the Trunk road entrance. Transport Scotland have not objected to the proposed means of construction and have offered informative comments to guide the applicant moving forward. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Conclusion

The submitted details are targeted at complying with and meeting the requirements of conditions 3-11 13-16 18 19 22-24 25(c)-(d) and 26-29 of planning consent. The supporting information, pre commencement surveys and varying mitigation proposed ensures the submissions satisfy the requirement of Moray Local Development Plan 2020 in addition to fulfilling the requirement of the conditions listed above. The approval of the two related planning applications for the substation conditioned matters and full permission for the diverted section of cable route give comfort that the other elements of the proposed scheme are in place.

REASON(S) FOR DECISION

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

The proposal complies with the relevant policies of the Moray Local development Plan 2020 and there are no material considerations that indicate otherwise. Subject to further conditions recommended, the application satisfies the requirements of the conditions sought to be approved.

**Author/Contact
Officer:**

Neal MacPherson
Principal Planning Officer

Ext: 01343 563266

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

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
- (i) **Character and Identity**
- Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) **Healthier, Safer Environments**

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

(iii) **Housing Mix**

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

(iv) **Open Spaces/Landscaping**

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

v) **Biodiversity**

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

(vi) **Parking**

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

- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d)** Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e)** Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP3 INFRASTRUCTURE & SERVICES

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

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

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

(ii) Transportation

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

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

(iii) Water environment, pollution, contamination

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

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

DP5 BUSINESS & INDUSTRY

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

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

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

- b) **Business Parks**

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

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

- c) **Industrial Estates**

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

- d) **Existing Business Areas**

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

- e) **Other Uses**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they

are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use

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

g) Rural Businesses and Farm Diversification

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

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

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

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

h) Inward Investment Sites

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

Proposals must comply with Policy DP1 and other relevant policies.

DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

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

- i) They are compliant with policies to safeguard and enhance the built and natural environment;

- ii) They do not result in the permanent loss or permanent damage of prime agricultural land;
- iii) They avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts.
 - Noise impacts.
 - Air quality impacts.
 - Electromagnetic disturbance.
 - Impact on water environment.
 - Impact on carbon rich soils and peat land hydrology.
 - Impact on woodland and forestry interests.
 - Traffic impact -mitigation during both construction and operation.
 - Ecological Impact.
 - Impact on tourism and recreational interests.

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

b) Onshore wind turbines

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

i) The Spatial Framework

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

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

ii) Detailed Consideration

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

Landscape and visual impact

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

Cumulative impact

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

Impact on local communities

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

Other

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

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

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

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

c) **Biomass**

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

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

- Where necessary, appropriate structural landscaping must be provided to assist the development to integrate sensitively.

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

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

d) Heat

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

Where no heat network is present or planned:

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

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

Developments which have a high heat demand are encouraged to co-locate with sources of heat supply.

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

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

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

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

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

- i) There are no alternative solutions, and
- ii) There are imperative reasons of over-riding public interest including those of a social or economic nature, and

- iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

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

b) National designations

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

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

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or

activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

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

EP2 BIODIVERSITY

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

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

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

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

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their

roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term. A landscaped buffer may be required where the council considers that this is required to maintain an appropriate long term relationship between proposed development and existing trees and woodland.

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

c) Control of Woodland Removal

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

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

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland Removal policy, woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal

for compensatory planting may form part of this balance. Where woodland is to be removed then the Council will require compensatory planting to be provided on site, on another site in Moray within the applicant's control or through a commuted payment to the Council towards woodland and greenspace creation and enhancement. Developers proposing compensatory planting are asked to follow the guidance for site assessment and woodland design as laid out in Scottish Forestry's "Woodland Creation, Application Guidance" and its subsequent updates, when preparing their proposal.

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

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

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

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

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

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

- Proposed design/ layout of final development, including accesses and services.
- Trees to be retained- with those requiring remedial work indicated.

- Trees to be removed.
- Location (and specification) of protective fencing around those trees to be retained based on the Root Protection Area.

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

Landscape Scheme

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

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

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

EP8 HISTORIC ENVIRONMENT

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

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

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

b) Local Designations

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

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

c) Hazardous sites

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

EP16 GEODIVERSITY AND SOIL RESOURCES

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

Where areas of important geological interest are present, such as geological Sites of Special Scientific Interest (SSSI) or Geological Conservation Review (GCR) sites are present, excavations or built development can damage, destroy and/or prevent access to the irreplaceable geological features. Development should avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded.

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

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

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

Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, movement, degradation or erosion of peat is avoided and proposes suitable mitigation measures and appropriate reuse. Commercial peat extraction will not be permitted

WARD 04_17

21/00304/APP
16th March 2021

**Amended approved house types approved under ref
 18/01209/APP from 16 private homes to 15 affordable
 homes on Plots 44 To 62 South Glassgreen Elgin South
 Elgin Moray
 for Springfield Properties PLC**

Comments:

- The proposal (as a whole or in part) has previously been reported to Committee and the appointed officer considers that significant implications of this proposal in conjunction with 21/00739/APP have been made for Committee to reconsider the development.
- No objections received.

Procedure:

- If Members are minded to approve that a modification of the existing Elgin South Section 75 legal agreement is required prior to issue of planning consent.

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

Conditions/Reasons

1. Unless otherwise agreed in writing with the Council, as Planning Authority, the site hereby approved shall not be developed as per 16/01244/APP or as modified by 18/01209/APP without prior written permission of the Council, as Planning Authority.

Reason: In order to avoid any ambiguity regarding the terms of the consent and to further control the delivery of affordable housing for this location.

2. The development hereby granted forms part of, and is related to, a development granted planning permission under formal decision notice 16/01244/APP dated 10 May 2018 wherein:
 - a) the terms and conditions as attached to the permission granted under formal decision notice 16/01244/APP and as amended under 18/01209/APP are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, in particular Conditions 16-19, 22, 24, 27-28, 30, 40, 41, 50 (part a), and 52 inclusive (approved on 16 May 2019), including any details already approved thereunder to discharge the requirements of the identified conditions; and

- b) no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 44-46, 51-56 and 57-63.

Reason: To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented.

3. Notwithstanding the details shown on Drawing EL02_PL_SL_05 Rev B for the proposed cyclepath, bin collection area and footpath access to the south for Plots 207-210 (which are not acceptable), no development works shall commence until a drawing (scale 1:200 min) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The plot boundary setback and cyclepath extended to provide a safe crossing and visibility for and of users. The bin collection area relocated to a suitable location at least 2 metres from the carriageway edge and the footpath access directly onto the carriageway to the south removed or removed and replaced with an access onto the cyclepath to the east.

Thereafter the proposals shall be completed in accordance with the approved details.

Reason: In the interests of an acceptable form of development and road safety through the provision of details currently lacking or unacceptable within the submission.

4. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house or flat.

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

5. Parking provision for houses shall be provided at the following rates:
1 Bedroom = 1 space
2 -3 Bedrooms = 2 spaces
4 or more bedrooms = 3 spaces

Parking for flats (Plots 207-214) shall be provided as shown on Drawing EL02_PL_SL_11 including provision of bicycle stores (with a minimum of 1 cycle space per flat) and 2 visitor parking spaces.

Parking shall be provided prior to the completion of each house or flat which it is

associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

7. No works shall commence on any area proposed for development until a Construction Traffic Management Plan for the respective area has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
 - a. duration of works;
 - b. construction programme;
 - c. number of vehicle movements (i.e. materials, plant, staff, components);
 - d. anticipated schedule for delivery of materials and plant;
 - e. full details of any temporary construction access;
 - f. full details of construction traffic routes from the A941 and A96 to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
 - g. measures to be put in place to prevent material being deposited on the public road;
 - h. measures to be put in place to safeguard the movements of pedestrians;
 - i. traffic management measures to be put in place during works including any specific instructions to drivers; and
 - j. parking provision, loading and unloading areas for construction traffic.

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

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

8. All landscaping shall be planted in the first planting season following completion of the houses, and maintained in accordance the submitted schedule of landscape maintenance. Any trees that are substantially damaged or die within 5 years of being planted must be replaced with a similar type and standard of tree.

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

Reason(s) for Decision

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

The proposal complies with Moray Local Development Plan 2020 and there were no other material considerations to indicate otherwise.

List of Informatives:

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

A Building Warrant will be required for the proposals. Should you require further assistance please contact the Building Standards Duty Officer between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail buildingstandards@moray.gov.uk

A S.75 modification is required.

The TRANSPORTATION MANAGER has commented that:-

The provision of Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority. Guidance on Electric Vehicle (EV) Charging requirements can be found at:
<http://www.moray.gov.uk/downloads/file134860.pdf>

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

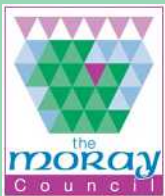
Requirement for any traffic calming, road construction materials and specifications and any SUDs related to the drainage of the public road must be submitted and approved through the formal Roads Construction Consent process.

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

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

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

| LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT | | |
|--|-------------|---|
| Reference No. | Version No. | Title/Description |
| MC/2018/CS/01 | B | C Type semi detached - elevations and floor plans |
| 2018/FF_901 | | Semi combinations - elevations and floor plans |
| 2019 AA_901 | | Semi combinations - elevations and floor plans |
| 2020DST-DST-901 | | Deanston - elevations and floor plans |
| EL02_LP_02 | | Location plan |
| EL02-ENG-310 | | Levels layout |
| EL02-ENG-610 | | Drainage layout |
| MC/2018/CS(dt)/01 | | CS type detached AS Handed - elevations and floor plans |
| EL02_PL_SL_05 | A | Site layout |
| EL02_PL_SL_06 | A | Affordable house type allocation |
| EL02_PL_SL_07 | A | Landscaping |
| EL02_PL_SL_08 | A | Material conditions |



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

21/00304/APP

Site Address:

Plots 44 To 62 South Glassgreen

Elgin South

Applicant Name:

Springfield Properties PLC

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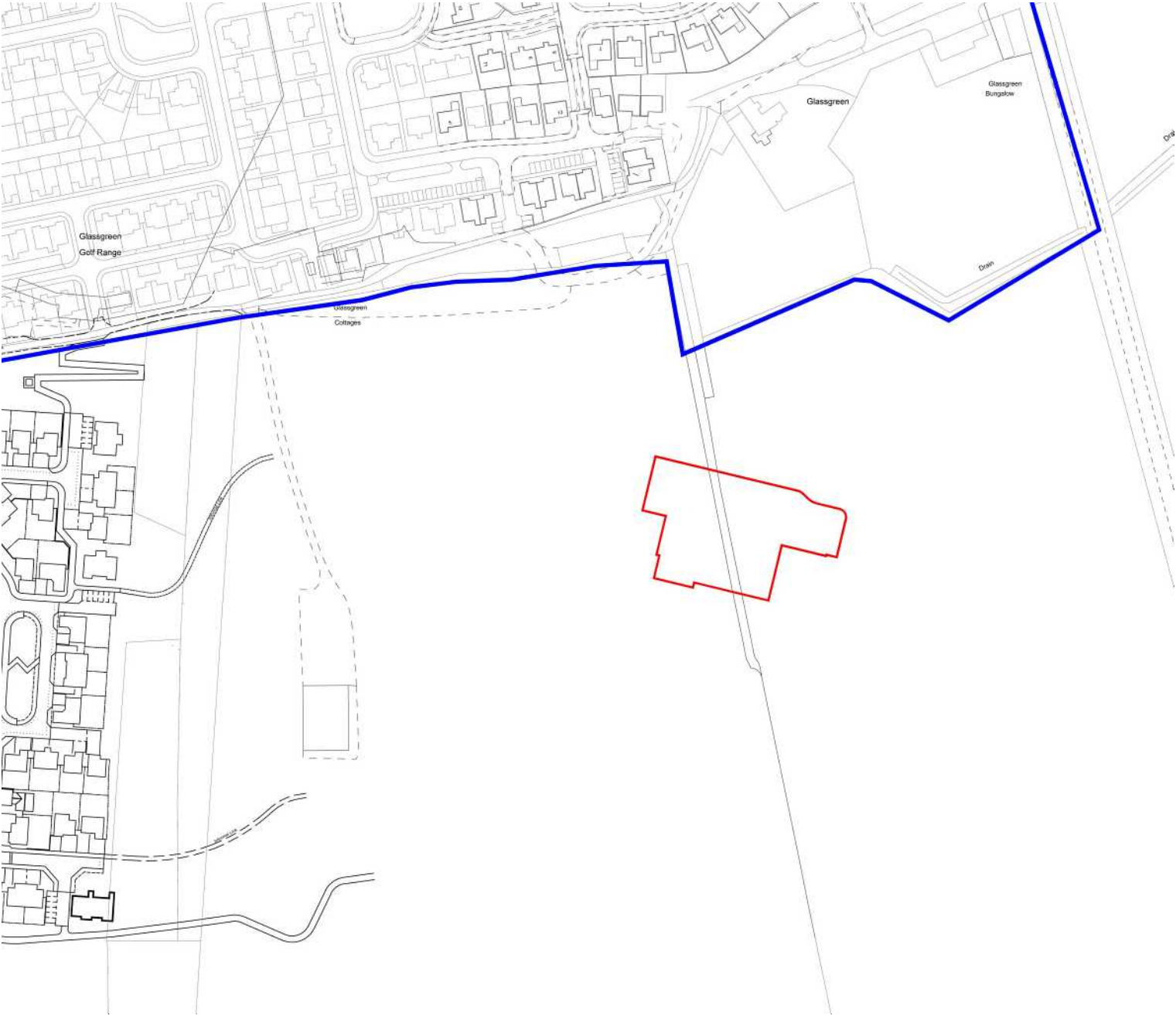
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Location Plan



Site Location



Site layout



House type allocation



Single storey semi CS type



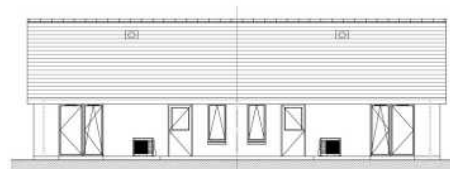
2018 CS Type Semi Detached
Ground Floor Plan
Internal Floor Area: 72.75sqm



2018 CS Type Semi Detached
Front Elevation



2018 CS Type Semi Detached
Side Elevation

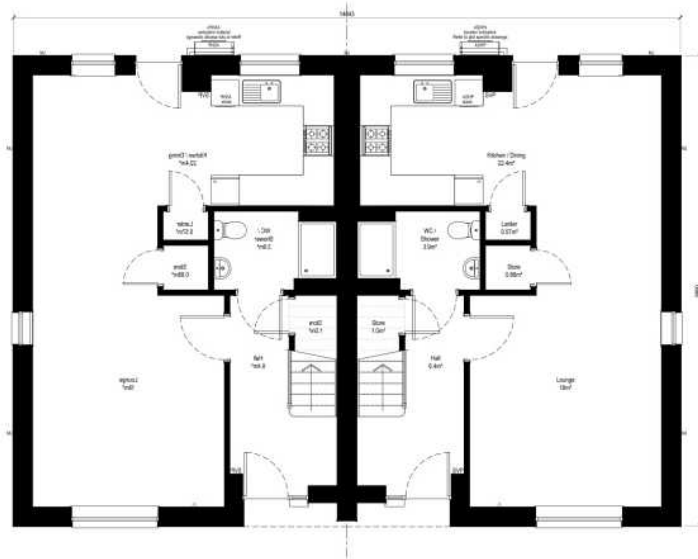


2018 CS Type Semi Detached
Rear Elevation

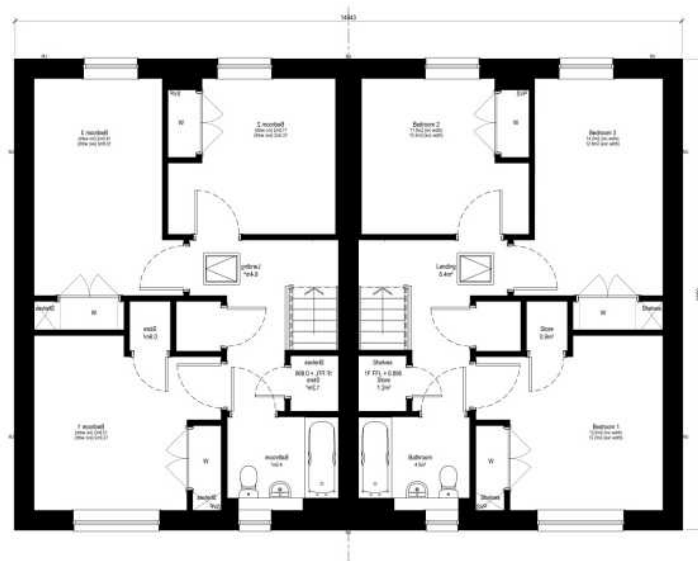


2018 CS Type Semi Detached
Side Elevation

2 storey semi houses



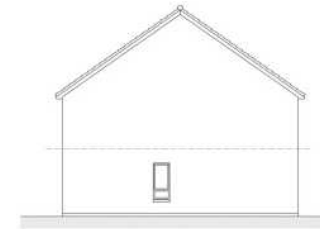
Ground Floor Layout



First Floor Layout



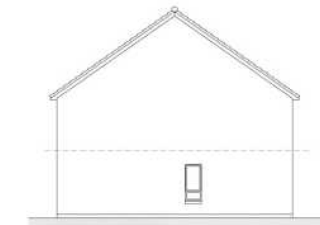
Front Elevation



Side Elevation



Rear Elevation



Side Elevation



3D Model

Type K house



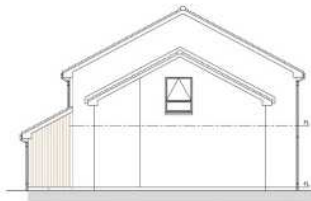
2018 K Type Detached OPP
Ground Floor Plan
Internal Floor Area: 150.9sqm



2018 K Type Detached OPP
First Floor Plan



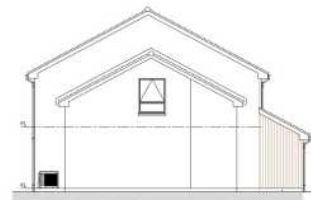
2018 K Type Detached OPP
Front Elevation



2018 K Type Detached OPP
Side Elevation



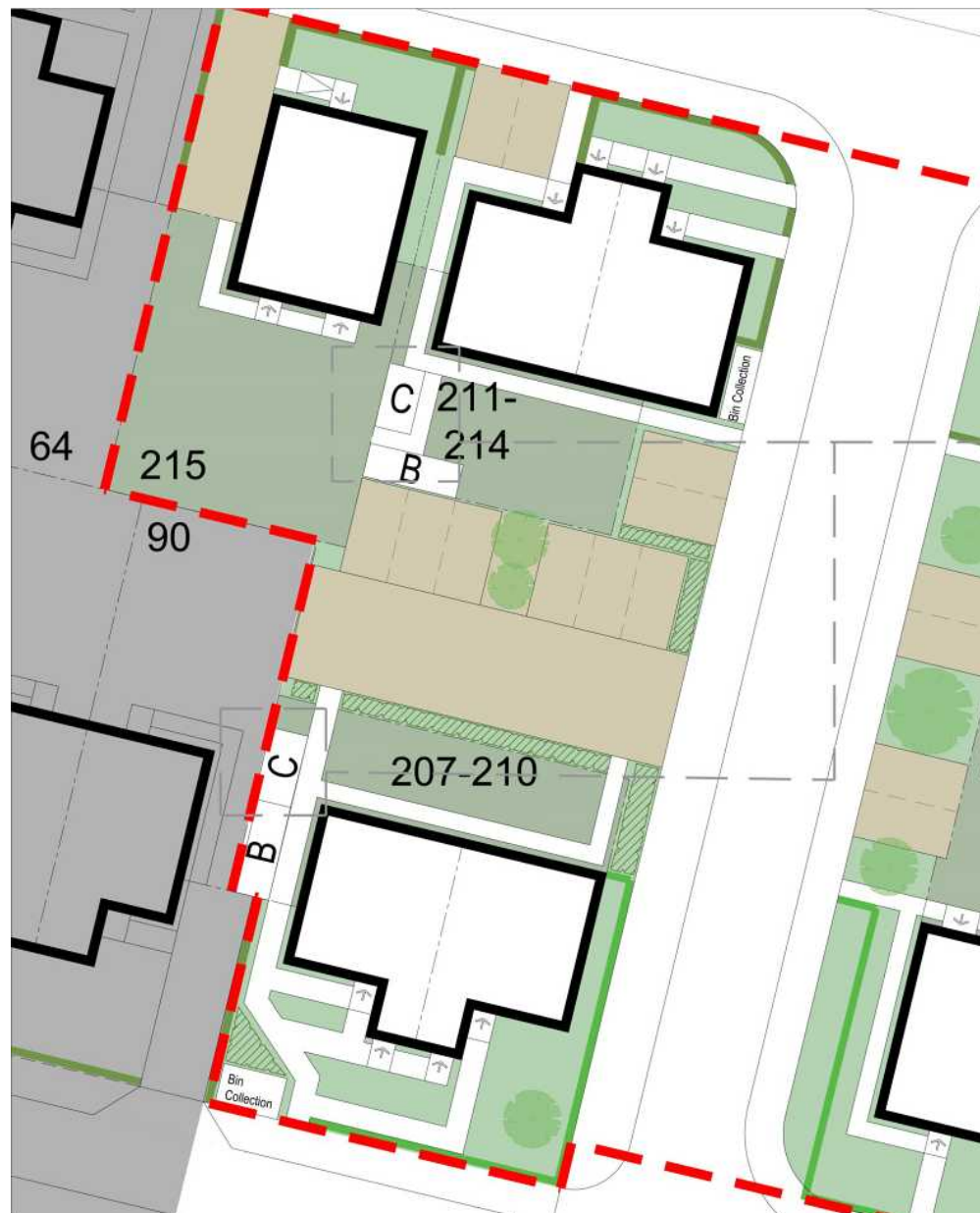
2018 K Type Detached OPP
Rear Elevation



2018 K Type Detached OPP
Side Elevation



Bicycle storage



Cycle Store Dimensions (1 unit)
855mm Wide
1900mm Long
1205mm High

View from A941 looking west across site



View looking Eastward across site



PLANNING APPLICATION: 21/00304/APP

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

THE PROPOSAL

- Erect 15 affordable house units. A combination of flats, semi-detached and detached houses.
- Utilise already approved roadways and surface water drainage infrastructure.
- On street parking will be provided.
- Electrical Vehicle charging points will be provided at the properties or communally for the block of flats.

THE SITE

- The site sits within R20 Glassgreen, Elgin South which has been largely progressed.
- As the site had already been stripped in preparation for the consented layout, and development remains ongoing at the adjoining South Glassgreen housing phase, it currently forms part of the wider building site.
- There are no international, national or local environmental designations upon the site.

HISTORY

16/01244/APP – Phase 1 of Elgin LONG2 south to include 870 houses neighbourhood uses including Classes 1 shops 2 financial professional & other services 3 food & drink 4 business 8 residential institutions 10 non-residential institutions Moray Sport Centre (with provision for indoor & outdoor recreation) two primary school sites and associated infrastructure (transport drainage & open space) and landscaping at Elgin South, Elgin, Moray. Approved by Committee on 10 May 2018 following conclusion of the legal agreement.

18/01209/APP - Application under Section 42 to vary condition 1 of planning consent 16/01244/APP to maintain provision for 870 houses (as approved) but vary phasing design and site layout details i.e. adjust Phase 1A boundary (western most part of Phase 1A within Crescent North and South Glassgreen character areas) to provide 50 affordable homes together with consequential revisions to boundaries of Phase 1D (South Glassgreen) and eastern most part of Phase 1A (Meadows North character area) and Phase 1C (Meadows East character area) revise mix of homes (including site layout and new Braemar and Lauder house types) within Crescent North and South Glassgreen character areas revise layout and reduce number of houses by 18 units within Village Garden character area to accommodate revision to alignment gas pipeline revise numbers and mix of houses including site layout within Village Core and Meadows East character

areas to accommodate 18 homes relocated from Village Garden at Elgin South, Elgin Moray. Approved by Committee on 15 May 2019.

18/01603/S75 - Section 42 application to vary the phasing condition (Condition ?) of proposed modification of planning obligation (associated with application 16/01244/APP) for Phase 1 development at Elgin LONG 2 South to apply to development occurring under planning applications 16/01244/APP and 18/01209/APP at Elgin South LDP2015 Long 2 Elgin Moray. Concluded in May 2019.

21/00739/APP - Residential development of 53 dwellinghouses landscaping and associated infrastructure on land at CF4 South Glassgreen Elgin Moray.

POLICY - SEE APPENDIX

ADVERTISEMENTS

None.

CONSULTATIONS

Housing Strategy and Development Manager – satisfied with the proposed mix of affordable housing.

Moray Flood Risk Management – no objections.

Planning and Development Obligations - as the development would see a reduction in the number of plots as originally approved, it would see a reduction of £6,500 in developer obligations which would be assessed as part of the wider modification of the Section 75 legal agreement.

Strategic Planning And Development – minor amendments to the layout, materials and landscaping amended to bring the layout into line with place-making requirements. EV charging and utility plants provided also.

Environmental Health Manager – no objections.

Contaminated Land – no objections.

Transportation Manager – approve subject to conditions and informatives.

Scottish Water – no response at the time of writing the report. Suitable infrastructure already approved however under current Elgin South Consents.

OBJECTIONS-REPRESENTATIONS

None received.

OBSERVATIONS

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

Background

To satisfy the requirement for affordable housing for planning application 21/00739/APP 16 housing units previously approved as private housing under planning application 16/01244/APP and as modified under 18/01209/APP are now proposed to be 15 affordable units. Conditions are recommended on planning application 21/00739/APP allowing the private housing only to be built out beyond approximately half their number until the affordable housing upon this site is delivered (if approved).

The main issues are considered below:

Affordable Housing (DP2)

The South Glassgreen character area where this application is located has recently been subject to a number of remix applications. It has been agreed with the applicant that in this instance the affordable housing requirements will be met through a combination of this application which is proposing to change 16 private units to 15 affordable and planning application 21/00739/APP which will include 2 affordable housing units to ensure the 51 private houses it proposes are met with a 25% affordable housing provision as required under policy DP2 Housing. It is proposed to determine both applications at the same time to ensure the matter is considered at sitting of the Committee.

As 68 units are being proposed across both applications, 17 affordable units are required, 15 of which are proposed under this application and 2 units were required to be provided under 21/00739/APP to meet this policy requirement.

The mix of affordable housing proposed being comprised of 1, 2, 3 and 5 bedroom houses. There is one block of single bed flats, with a range of single and two storey, detached and semi-detached houses. The mix of units is acceptable to the Housing Strategy and Development Manager. Of note, the building materials being similar to those proposed under 21/00739/APP will help achieve tenure blindness and continuity between this site and other close by housing.

The proposal is therefore deemed to comply with DP2.

Layout and Placemaking (PP1 and DP1 Elgin South Masterplan)

Moray Local Development Plan policies PP1 Placemaking, DP1 Development Principles require a suitable layout for housing developments although such assessment acknowledges that the proposed layout remains very similar to the originally consented layout, host to the 16 private dwellings, it is noted that a new access road bounds the east side of the site, where none had existed before. This short section of road links previously approved roadways within the Elgin South development and was favourably considered by Committee as one the changes to the previously approved layout under planning application 21/00396/APP considered by Members in December 2021. On this basis, the general layout of the proposed development is prescribed, but amendments to materials,

landscaping etc can bring the proposed development into line with other aspects of development beyond the layout.

The parking arrangements for the houses have also been amended to bring about compliance with policy DP1 section iv) and PP1 ii) which identify the parking requirements for developments.

Developer Obligation (PP3)

Planning application 21/00304/APP results in a decrease of 1 unit from the previously approved 16 private dwellings, therefore the existing Section 75 legal agreement relating to 16/01244/APP will need to be modified to reflect this change in numbers and decrease the overall contributions by £6,500. The developer has agreed to pay contributions on the related planning application 21/00739/APP for mostly private housing.

The proposal therefore complies with the requirements of policy PP3 Infrastructure and Services.

Infrastructure & Services (PP3)

Plans identifying EV charging have now been provided. Plans showing an indicative utility layout have been provided along with a fibre broadband specification and both are acceptable. The details are acceptable but a further condition is recommended to obtain the final detailed position of Electrical vehicle charging point and infrastructure.

Conclusion

The amended details in respect of landscaping/parking mitigation and materials bring the proposal in line with policy PP1 and DP1. The layout, designs, building material and parking are acceptable and would be appropriate for this locality.

REASON(S) FOR DECISION

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

The proposal complies with Moray Local Development Plan 2020 and there were no other material considerations to indicate otherwise.

Author/Contact

Neal MacPherson

Ext: 01343 563266

Officer:

Principal Planning Officer

Beverly Smith

Development Management & Building Standards Manager

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

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

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

v) Biodiversity

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

(vi) Parking

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

- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP3 INFRASTRUCTURE & SERVICES

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

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

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

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

(ii) Transportation

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

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

(iii) Water environment, pollution, contamination

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

- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP2 HOUSING

- a) Proposals for development on all designated and windfall housing sites must include a design statement and shall include 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 as may be required by the planning authority, unless these requirements are not specified in the site designation or are considered not to be required.

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 Strategic Planning and Development 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 40.

e) Housing Mix and Tenure Integration

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 incorporating affordable housing will be required to provide 10% of the private sector units to wheelchair accessible standard. 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 41.

POLICY GUIDANCE NOTE- AFFORDABLE AND ACCESSIBLE HOUSING

Affordable Housing

Providing affordable housing is a key priority for Moray Council and this is reflected in the Local Outcomes Improvement Plan (LOIP) and the Local Housing Strategy (LHS). The Council's Housing Need and Demand Assessment 2017 highlights the significant requirement for affordable housing in Moray, which is a national issue, resulting from a number of factors including affordability issues, downturn in the economy and the shortage of public and private sector rented houses.

Planning policies assist with the provision of affordable housing, which is defined in Scottish Planning Policy (SPP) as;

"housing of a reasonable quality that is affordable to people on modest incomes. Affordable housing may be provided in the form of social rented accommodation, mid-market rented accommodation, shared ownership housing, shared equity housing, housing sold at a discount (including plots for self-build and low cost housing without subsidy." This local development plan regards lower quartile earnings as "modest incomes".

The 2017 HNDA identified a requirement for 56% of all need and demand to be affordable units in Moray between 2017 and 2035. This Local Development Plan has lowered the threshold so that individual house proposals are required to make a contribution towards affordable housing provision, which is intended to ensure proposals do not circumnavigate the policy and provide a fair and transparent process.

A number of variables influence affordability of housing, including mortgage deposit requirements, mortgage interest rates, lower quartile house prices, lower quartile private rents, lower quartile full time gross earnings. Changes in these variables will affect the affordability of housing in Moray. The maximum affordable rent and maximum affordable house purchase prices is published on the Council's website at http://www.moray.gov.uk/moray_standard/page_90100.html. The current Local Housing Allowance will be used as a proxy for average private sector rents.

Affordable housing should be provided on site and as part of a mixed development of private and affordable units. To meet the need for affordable housing there may be proposals for 100% provision of affordable housing and these will be acceptable as part of a wider mixed community, provided all other Local Development Plan policies are met.

The policy requires single house proposals to make a commuted sum payment as a developer obligation towards affordable housing, with the cost figure published annually on the Council website at http://www.moray.gov.uk/moray_standard/page_94665.html and determined by the District Valuer's assessment of the value of serviced land for affordable housing in Moray. This allows developers to be clear at the outset of a project about the potential cost of commuted payments and should be reflected in land values.

The type of affordable housing to be provided will be determined by the Housing and Property service. Developers should contact Housing and Property as early as possible. Housing and Property will decide whether a commuted payment or affordable units will be required on a site by site basis. Housing and Property will provide developers with an affordable housing mix, detailing the size and type of housing required based on HNDA/LHS requirements.

The Council will consider the following categories of affordable housing within the context of the needs identified in the HNDA/ LHS;

- Social rented accommodation- housing provided by an affordable rent managed by a Registered Social Landlord such as a housing association or another body regulated by the Scottish Housing Regulator, including Moray Council.
- Mid-market rent accommodation- housing with rents set at a level higher than purely social rent, but lower than market rent levels and affordable by households in housing need. Mid-market rent housing can be provided by the private and social housing sectors.
- Shared equity housing- sales to low income households, administered through a Scottish Government scheme e.g. Low-cost initiative for First Time Buyers (LIFT).

Any proposals to provide affordable housing in a form other than those listed above, must demonstrate that the cost to the householder is "affordable" in the Moray context and that the property will remain "affordable" in perpetuity.

Affordable housing requirement figures will be rounded up.

The Strategic Housing Investment Plan (SHIP) is produced annually by the Council and identifies details of the proposed delivery of affordable housing.

Accessible housing

Scottish Planning Policy states (para 28) that "the aim is to achieve the right development in the right place; it is not to allow development at any cost" and "that policies and decisions should be.....supporting delivery of accessible housing."

Policy DP2 aims to;

- Assist the Council, the NHS and the Health and Social Care Moray to meet the challenges presented by our ageing population and the shared aim of helping people to live well at home or in a homely setting. The HNDA 2017 demonstrates that Moray's population is ageing and there is a trend towards older and smaller households.
- Provide increased choice of tenure to people with physical disabilities or mobility impairments, by increasing the supply of accessible housing in the private sector. There is currently a mismatch between the size and type of housing required and the size and type of housing available across all tenures. This mismatch, along with increasing housing needs associated with physical disability, are the likely drivers of owner occupiers seeking public sector accessible housing to meet medical needs.

Accessible/ adapted housing can promote independence and wellbeing for older or disabled people, can facilitate self- care, informal care and unpaid care, potentially prevent falls and hospital admissions and can delay entry into residential care.

Policy DP2 requires that housing proposals of 10 or more units incorporating affordable housing must provide 10% of the private sector units to wheelchair accessible standard where all the rooms are accessible to a wheelchair user.

This applies to new build and conversion/ redevelopment projects. Flexibility may apply where there is extremely challenging topography or where the site is in a remote location. For the purposes of Policy DP2, "remote" locations are defined as being rural areas outside settlement and Rural Grouping boundaries as defined in the Local Development Plan.

Accessible units should be in a location which provides convenient access, in terms of distance, gradient and available public transport, to reach the facilities needed for independent living. Small, low maintenance gardens are generally regarded as a positive feature by this customer group.

New wheelchair accessible housing in any tenure must comply with Housing for Varying Needs Standards (HfVNs), including the standards specific to dwellings for wheelchair users. HfVNs is available at http://webarchive.nationalarchives.gov.uk/20131205115152uo_/http://www.archive2.official-documents.co.uk/document/deps/cs/HousingOutput/start.htm

The specific design specification required to meet the terms of this policy are;

External requirements

- location(s) convenient for amenities and facilities e.g. public transport, local shops etc
- car parking space as close as possible to the entrance door and at a maximum distance of 15m (HfVNs para 7.13.4 refers).
- Step free paths within curtilage, ramp gradients preferably of 1:20 but no steeper than 1:12 (HfVNs para 7.7.1 refers)

Internal requirements

- Hallways- minimum 1200mm wide (HfVNs para 10.2.3 refers)
- Door frames- minimum 926mm wide door leaf, giving a clear width of 870mm (HfVNs para 10.5.7 refers)

- Bathrooms/ wet rooms- 1500mm wheelchair turning circle required (HfVNs para 14.9.2 refers)

Accessible housing requirement figures will be rounded down.

All proposals for new build or converted housing should set out details of how they will comply with this policy in their planning application.

EP2 BIODIVERSITY

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

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

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

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

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

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction must be

used where appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable.

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

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

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

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

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

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

c) Water Environment

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

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a

presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

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

c) Hazardous sites

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

R20 Glassgreen, Elgin South 18 ha 195 units

- Proposals must comply with the Elgin South Masterplan Supplementary Guidance. The Masterplan layout is shown on page 171.
- Site R20 includes South Glassgreen and Crescent (North) neighbourhoods within the Elgin South masterplan.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- Open space and play areas must be provided in compliance with the masterplan.

WARD 04_17

21/01615/EIA
13th October 2021

**South western extension of cobble and sand quarry at
Lossie Forest Quarry Moray
for Tennants (Elgin) Ltd**

Comments:

- The application is on a Major development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008 (the Hierarchy Regulations) and the site exceeds 2ha.
- Advertised as an EIA development and for Neighbour Notification, as a departure from the development plan and a Schedule 3 development.
- Three representations received at time of writing report.
- Any further representations received following expiry of statutory advertisements – 24 February 2022 (departure and Schedule 3) to be reported verbally at committee meeting.

Procedure:

None.

Recommendation

Grant Planning Permission subject to the following:

Conditions/Reasons

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on 1 March 2037 (the 'cessation date') by which time and prior to that cessation date, the application site shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as Planning Authority (see Condition 14 & 15 below).

Reason: To ensure an acceptable form of development enabling the development to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, and to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and appearance.

2. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent has been put in place to ensure restoration of the site in accordance with conditions 14 and 15 below and has been submitted and agreed in writing with the Council, as Planning Authority.

Reason: To ensure adequate restoration of the site.

3. No development shall commence until the area of extraction hereby approved has been enclosed by a stock proof fence which shall be maintained thereafter to the satisfaction of the Planning Authority throughout the lifetime of the consent. For the avoidance of doubt there shall be no working whatsoever including the storage of materials or other items outwith this fence.

Reason: In the interests of the safety of the public and of livestock and in order to control the working of the site within the approved boundaries.

4. No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority, regarding details of a woodland planting scheme (the Replanting Scheme) within Moray to compensate for the removal of existing woodland from the site in order to accommodate the development. All proposals shall be in accordance with the details contained in Section 11 of the Environmental Impact Assessment Report (EIAR) submitted with the application. The Replanting Scheme shall include:
 - details of the location of the areas to be planted;
 - details of trees to be retained within the site include the measures for their protection;
 - details of land owners and occupiers of the land to be planted;
 - the nature, design and specification of the proposed woodland to be planted;
 - details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - the phasing and associated timescales for implementing the Replanting Scheme; and
 - proposals for the maintenance and establishment of the Replanting Scheme, including annual checks; protection from predation; replacement planting; fencing; ground preparation; and drainage, etc. For the avoidance of doubt a technically competent professional(s) (e.g. chartered forester) with the required experience should inspect the Replanting Scheme at regular intervals (year 1, 5 and 10) to ensure that the trees are planted correctly, maintained to the required standard and ultimately established into woodland.

Thereafter, the development shall be implemented in accordance with the approved Replanting Scheme details, including the phasing and timescales as set out therein.

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development where compensatory planting is provided where the development results in a loss of woodland.

5. 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 WSI 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 brought into use 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.

6. No development shall commence until a site specific Water Management Plan (WMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with SEPA. For the avoidance of doubt the WMP shall address the following matters:
- Management of general site surface water run off.
 - Flow balancing by sumps and pumping.
 - Control of particulates by settlement in sumps and lagoons.
 - Control of water chemistry.
 - Oil and scum removal.
 - Use of water in processing plant and treatment of effluent including vehicle washing water.
 - Containment of spillage from storage and processing areas.
 - Use of water in dust control.
 - Monitoring of groundwater levels.
 - Use of appropriate water to counteract groundwater lowering e.g. in nearby pools.
 - Regular cleaning and maintenance of water system; and thereafter, the development shall be carried out in accordance with the approved WMP.

Reason: To ensure adequate protection of the water environment.

7. 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 SEPA where appropriate. The CEMP shall address all pollution prevention and environmental management issues related to the development. 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.

8. No development shall commence until the following details have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
- i. A design for the site access onto the B9103 including the left hand diverge, to address access surfacing, loose material and drainage issues.
 - ii. Resurfacing of the B9103 over its full width from the north of the site access to the south of the left hand diverge lane (approximately 50 metres).
 - iii. Measures to prevent loose material or water being deposited on the public road and mitigation measures to be put in place to deal with any occurrences.

Thereafter the works required shall be implemented in accordance with these approved details prior to the commencement of any operations to transport quarried materials from the development.

Reason: To ensure an acceptable development in road safety terms through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

9. A visibility splay 4.5m x 160m at the B9103 access in both directions shall be maintained for the operational life of quarrying works such that no vegetation within the visibility splay exceeds 0.6m in height.

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

10. Except where otherwise provided for, or agreed and/or amended by the terms of this permission, the applicant/developer shall operate the development in accordance with the provisions of the application, the EIAR and the plans hereby approved including all plans contained in volume 3. For the avoidance of doubt this shall include compliance in full with all mitigation and monitoring measures listed in table 12.1 on pages 100 to 103 inclusive of volume 2 of the EIAR including:

- i) Cultural heritage;
- ii) Hydrology and hydrogeology;
- iii) Ecology;
- iv) Noise;
- v) Forestry;
- vi) Air quality;
- vii) Natural resource usage and waste management;
- viii) Dust Management Plan (technical appendix 5.1); and
- ix) Extractive Waste Management Plan (technical appendix 5.2) attached to the EIAR.

Reason: To ensure an acceptable form of development in accordance with the submitted particulars and in order to safeguard the amenities, character and appearance of the locality within which the proposal is located.

11. The approval hereby granted is purely for the extraction and removal of cobbles and sand, and other than for the screening/grading of extracted material there shall be no rock crushing, production of quarry related products or other processing.

Reason: For the avoidance of doubt, in order to minimise the effect of the workings hereby permitted on the environment and so that appropriate consideration may be given to any such activities.

12. Notwithstanding the provisions of Classes 55 and 56 of the Town & Country Planning (General Permitted) (Development) (Scotland) Order 1992 (as amended, or as revoked or re-enacted; with or without modification) no buildings, plant or machinery (other than the single wheeled shovel loader or excavator within the extraction area and/or similar fixed/mobile plant, machinery and buildings located with the processing area), shall be installed or operated within the site without the prior approval of the Council, as Planning Authority.

Reason: In order to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or adversely impact on the amenity or character of the area.

13. Where proposed, as part of extraction and/or site restoration operations, any proposed infilling including partial infill of excavated quarry voids shall only be undertaken using material sourced on the site and no part of the permission hereby granted shall authorise or permit at any time the removal of top or sub-soil from the site or the import of material from outwith the site.

Reason: To prevent pollution of the water environment.

14. Not less than 12 months prior to completion of mineral workings in each phase of development as detailed in the EIAR, details shall be submitted to and approved by the Planning Authority in consultation with SEPA (and others where appropriate) regarding:
- i. a detailed restoration plan and aftercare scheme for the extraction area hereby approved to include:
 - ii. the arrangement for the removal of all buildings and structures (both mobile and fixed plant, etc.) from each area;
 - iii. details of the finalised landform to be provided on site, including all water/pond areas and all areas of site mounding or moulding of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum) etc. to describe the finalised landform;
 - iv. the provisions for re-instatement for after-uses to include woodland, wetlands and habitat creation as proposed within the EIAR including sections and finished ground levels to show the finished profile of the re-instated ground;
 - v. landscaping and planting/seeding information associated with the proposed formation of all identified habitats;
 - vi. the arrangements for the monitoring and aftercare scheme (see Condition

below) which shall specify all the steps to be taken and the time periods within which the steps will be taken; and thereafter, the restoration of the site and aftercare shall be carried out in accordance with the approved details. For the avoidance of doubt the restoration of phase 1 shall take place during phase 3 of the development and continue on a progressive basis throughout the lifetime of the development hereby approved.

Reason: To ensure that both the processing and extraction sites are appropriately restored in the interests of the protection of the environment and that the final landform and uses are in keeping with the existing amenities and appearance of the surrounding area, as these details are currently lacking from the application.

15. Following restoration works (whether for each individual Phase or upon completion of Phase 3, the approved restoration works within the site (Condition 14) shall be subject to a monitoring and aftercare scheme for a period of 5 years, the method statement and specification for which shall be submitted to and approved by the Council, as Planning Authority in consultation with SEPA and others as appropriate not less than 2 months prior to undertaking the restoration works. Thereafter, the agreed scheme shall be implemented in accordance with the agreed details and any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season.

Reason: In order to monitor the condition of the site after restoration.

16. The oil storage tanks shall be protected as follows:
- i. The oil storage tank to be located on an impervious base and surrounded by the bund wall. The capacity of the bunded area should be equal to 110% of the storage tank volume.
 - ii. All valves and couplings to the tank should be included in the bunded area. Any delivery hose should be fitted with trigger type sprung handles and hung back in the bunded area after use.
 - iii. All vent pipes must be designed and positioned so that any overflow, through overfilling the tank, is discharged into the bunded area.
 - iv. All surface water or other water which accumulates within the bund should be removed by a manually controlled positive lift pump (e.g. a semi rotary hand pump) and not a gravity drain.
 - v. All drainage from the bunded area should be treated by an oil interceptor device, the design of which is approved by the Council, as planning authority in consultation with SEPA.

Reason: In the interests of amenity and public health so as to ensure that there is no contamination of adjoining land or watercourses arising out of accidental discharges or damage to the tanks.

17. All quarry operations shall be carried out and permitted between 0700 - 1800, Monday to Friday, and 0800 - 1300, Saturdays and at no other times without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason: In order that the times of quarry operations are controlled to minimise noise disturbance to local residents.

18. During the normal daytime working hours defined in condition 17, the free-field Equivalent Continuous Noise Level (LAeq,1h) for the period, excluding bund formation with soil and overburden handling activity, shall not exceed 45dB(A), as determined at any existing noise sensitive property.

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

19. Noise from soil and overburden handling and other works in connection with bund formation at the development shall not exceed the free-field Equivalent Continuous Noise level (LAeq,1h) of 70 dB(A) at any existing noise sensitive property and be limited to a period not exceeding 8 weeks in a year at any one property.

Reason: In order that noise from the bund formation phase of development is controlled and that the duration of this activity is limited in duration, so as not to cause noise nuisance to local residents.

20. At the reasonable request of the Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense, noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note 'PAN50, Annex A: The Control of Noise at Surface Mineral Workings'. The results of such monitoring shall therefore be forwarded to the Planning Authority. In the event of a breach of noise limits a scheme of mitigation shall be brought into action and its implementation agreed with the Planning Authority.

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

21. For the avoidance of doubt the soil bund shall not exceed 3m in height at any point.

Reason: As no such details are included with the application and in order to ensure an acceptable form of development that does not adversely impact on the character of the surrounding area.

Reason(s) for Decision

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

On the basis that the proposal is for an extension of an existing quarry, would contribute towards the long-term planning for the provision of construction aggregates in Moray and is in a good, accessible location which is well screened and not considered to have a significant impact on the special qualities of the Lossiemouth to Portgordon Coast Special Landscape Area (SLA), the proposed development is an

acceptable departure from Policy EP3. Notwithstanding the deviation from policy EP3, subject to conditions as recommended, the siting, layout and restoration of the development are considered acceptable and otherwise accord with the development plan with no unacceptable or significant adverse effect upon the surrounding environment and there are no material considerations that indicate otherwise.

Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority having taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed extraction and that its location is appropriate in local and national planning policy terms.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts upon the, biodiversity (wildlife and ecology), hydrology and hydrogeology, cultural heritage (archaeology), noise, air and climate (dust), transportation, aviation and woodland. With progressive site restoration and woodland re-planting, there would also be positive impacts in terms of ecology and biodiversity.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent.

The Council is satisfied that this reasoned conclusion is up-to-date.

Description of the Development

The Development comprises a mineral extraction area to be used which represents an extension to the existing operation at Lossie Forrest Quarry, within the administrative area of Moray Council, all as specified in the application and accompanying Environmental Impact Assessment Report submitted on 13 October 2021. This is subject to the conditions as contained within the decision notice granting planning permission for the development.

The principle components of the proposal comprise:

- The extension of the existing quarry by 15ha and a period of 15 years for operations in this area.
- Cobbles and sand are extracted at the rate of approximately 40,000 tonnes per annum.
- Extraction takes place below the water table at a depth of 1.5m AOD.
- The extraction area would comprise 3 phases each expected to last 5 years and yielding approximately 200000 tonnes of material.
- The proposed extension will be restored on a progressive basis. Phase 1 of the proposed extension will be restored during Phase 3.
- Restoration of the existing quarry will take place in accordance with the existing permission (10/01606/MIN) for that part of the site once extraction is complete and

stockpiles have been removed. It is anticipated that this will be in Phase 1 of the proposed extension.

List of Informatives:

ABERDEENSHIRE COUNCIL ARCHAEOLOGY SERVICE, has commented that:-

For the avoidance of doubt the works shall comprise an archaeological metal detecting survey; a post felling field survey and ideally pre felling field survey, and a watching brief over ground-breaking works.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to commencing any works on the B9103 the requirement Technical Approval or Roads Construction Consent must be confirmed with the Roads Authority.

Resurfacing of the B9103 shall be completed in Hot Rolled Asphalt (HRA).

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

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.

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 a road opening permit in accordance with the Roads (Scotland) Act 1984.

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.

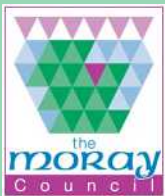
The applicant shall be responsible for ensuring that their operations do not result in loose materials or water being deposited onto the public road.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Details of general regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. The applicant should quantify the groundwater abstraction in order to determine the level of Controlled Activity Regulation (CAR) authorisation that may be required. Further detailed are available in The CAR Practical Guide available at www.sepa.org.uk/media/34761/car_a_practical_guide.pdf

The restoration proposals should aim to produce a mosaic of habitats of wetland, dry and wet species rich grasslands, and coastal/wet woodland and scrub and using the soils previously stored will give a good seed source for the area.

| LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT | |
|--|--------------------|
| Reference No. Version No. | Title/Description |
| UG613/PA/F/01 | Site location plan |
| UG613/PA/F/02 | Location plan |
| UG613/PA/F/03 | Phase 1 |
| UG613/PA/F/04 | Phase 2 |
| UG613/PA/F/05 | Phase 3 |
| UG613/PA/F/06 | Cross sections |



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

21/01615/EIA

Site Address:

Lossie Forest Quarry

Moray

Applicant Name:

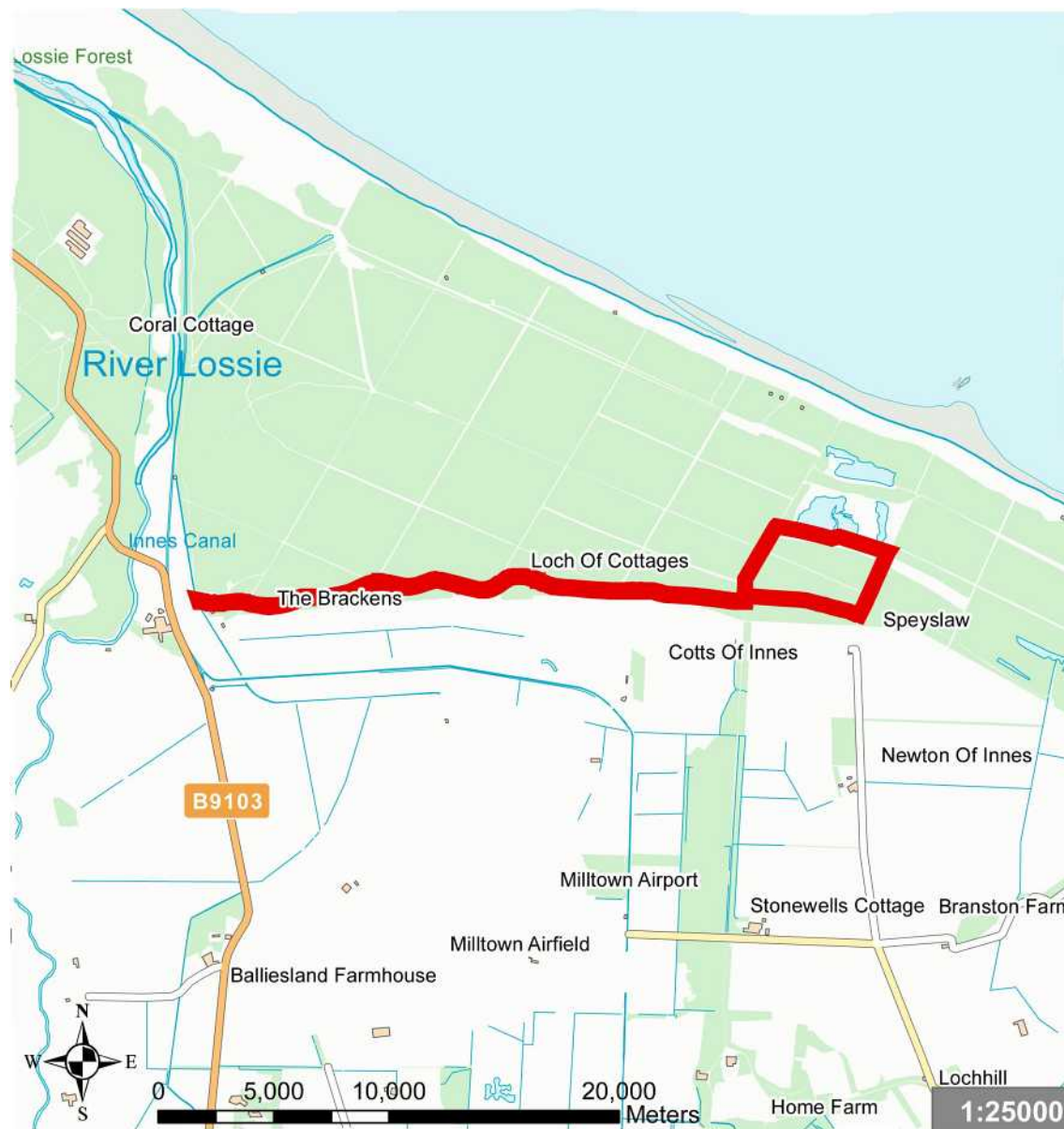
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Location Plan



Site Location





Photo Locations



Map Description: a Description of a Moray Council Map

Scale: 1:33,163 @ A4



Photo 1



Photo 2



Photo 3



Photo 4



PLANNING APPLICATION: 21/01615/EIA

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

THE PROPOSAL

- This application seeks permission of the extension of the existing quarry by 15ha and a period of 15 years for extractions in the extended area.
- Cobbles and sand will be extracted at the rate of approximately 40,000 tonnes per annum.
- The cobbles and sand are extracted by an excavator, then transported to the processing plant by loading shovel/dump truck and dry screened to split the cobbles and sand.
- The existing office, weighbridge and mobile processing unit (screening/grading only) and oil tanks will also be moved from the current excavation area to the application site.
- A new section of track will be formed within the extended area to provide access into the working area. This will join an existing track that runs along the western boundary of the site.
- A soil bund will be formed in the southern part of the site that will move east as the site is worked. This will serve to mitigate the impacts of noise from the quarry. It will have a maximum height of 3m.
- The extraction area would comprise 3 phases, each expected to last 5 years and yielding approximately 200000 tonnes of material.
- Extraction takes place below the water table at a depth of 1.5m AOD.
- Operation hours would be 7am–6pm on weekdays and 8am-1pm on Saturdays with no Sunday working. This is a change from the operating hours of the current quarry which are 7am-7pm on week days and 7am-1pm on Saturdays.
- The proposed extension will be restored on a progressive basis. Phase 1 of the proposed extension will be restored during Phase 3.
- Restoration of the existing quarry will take place in accordance with the existing permission (10/01606/MIN) for that part of the site once extraction is complete and stockpiles have been removed. While permission is in place for extraction at the existing site until October 2025 the applicant has confirmed that less than one year's supply remains and it is anticipated that restoration of this area will be in Phase 1 of the proposed extension.
- The application is an EIA development and is supported by an Environmental Impact Assessment Report (EIAR) which includes a Dust Management Plan, Extractive Waste Management Plan, Transport Statement, Noise Impact Assessment along with a Planning Statement and PAC Report.

THE SITE

- The site is an area of coniferous woodland with a small area of broadleaved woodland to the north.
- The restored part of the quarry is immediately to the north and the current working area is to the north east.
- There are existing tracks to the west and south.
- There is extensive tree cover around the site.
- The site is served by an existing access which joins the public road (B9103) approx. 2km to the south west of the site at Inchbroom Farm.
- There are wartime installations along the coast which are scheduled ancient monuments. The closest is approximately 375m to the north of the application site.
- The site is not covered by any natural heritage designation but NatureScot have identified potential connectivity between the site and the Spey Bay Special Area of Conservation (SAC) and Spey Bay Site of Special Scientific Interest (SSSI). The site is on the National Forest Inventory as conifer woodland.
- A portion of the northern part of the application (approx. 2.25ha of 15ha total) is covered by the Lossiemouth to Portgordon Special Landscape Area as identified in the Moray Local Development Plan 2020.

HISTORY

21/00318/PAN - South west extension of cobble and sand quarry comprising circa 15 hectares – reported to Committee on 18 May 2021. Members requested that the first 15m of the access track be surfaced. A virtual public event was held on 29 March 2021 and the information was available for inspection online for a further period of 21 days. One person attended the public event but no comments were received.

20/01754/SCO – Extraction of cobbles - Scoping Opinion relating to the current proposal. Issues and impacts to be addressed in EIAR - 27.01.2021

20/01427/SCN - Extraction of cobbles – Screening Opinion confirming that this is an EIA development - 20.11.2020.

10/01606/MIN - Extend existing shingle quarry and extend by 4 years the period of planning consent for the existing shingle quarry (consent ref 01/00526/MIN) granted 28.02.2011 - Planning Application to allow the original quarry area to be worked for a further 4 years and open up the current working area. The original area has now been restored. Permission for the current working area runs until 30 October 2025 - determined - 28.02.2011.

01/00526/MIN - Proposed commercial shingle extraction off B9103 nr Arthur's Bridge – Original planning permission for the site covering the now restored area only - permission granted 12.11.2001.

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

The application was advertised in the Northern Scot and Edinburgh Gazette as an EIA development and for Neighbour Notification, as a departure from the development plan and a Schedule 3 development.

CONSULTATIONS

Strategic Planning and Development: Approximately 2.25ha of the northern area of the proposed extension site is located within the Lossiemouth to Portgordon Coast Special Landscape Area (SLA), and the proposal does not comply with any of the acceptable uses and therefore is a departure from Policy EP3.

However, on the basis that the proposal is for an extension of an existing quarry, would contribute towards the long-term planning for the provision of construction aggregates in Moray and is in a good, accessible location which is well screened and not considered to have a significant impact on the special qualities of the designated area, the proposed development is an acceptable departure from Policy EP3 and complies with Policies PP1, PP3, DP5, DP10, EP2, EP7, EP12 and EP16, subject to the provision of information to the satisfaction of Environmental Health (Moray Council) and the Council's Archaeologist, the proposal complies with Policies PP2, DP1, EP8 and EP14.

N.B as is noted below that Environmental Health and Archaeology have no outstanding objections.

Environmental Health: No objection subject to conditions relating to noise and operating hours and dust.

Moray Access Manager: No objection.

Environmental Protection: No objection.

Contaminated Land: No objection.

Moray Flood Risk Management: No objection.

Transportation: No objection subject to conditions to ensure that the access to the public road is improved to an acceptable standard and that sufficient visibility is maintained at the access.

Private Water Supplies: No objection.

Archaeology: No objection following the submission of additional information. A condition is recommended requiring a programme of archaeological works.

Scottish Water: No objection.

Historic Environment Scotland: No objection.

MOD: No objection.

SEPA: No objection subject to a condition requiring the submission of a surface water management plan for the site.

NatureScot: No objection. For interests, within the remit of NatureScot, we agree with the topics covered by the report and the evaluation of the significance of environmental effects. We consider the proposed mitigation measures to be appropriate and sufficient.

The proposal site lies within 250m of the following protected areas:

- Lower River Spey - Spey Bay Special Area of Conservation (SAC)
- Spey Bay Site of Special Scientific Interest (SSSI)

There is potential for working of the proposed quarry extension area in Lossie Forest to impact on the hydrology of the area and thus the natural habitats within the section of the SAC/SSSI that lies 250m to the north.

The status of the SAC means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, the Moray Council is required to consider the effect of the proposal on the SAC before it can be consented (commonly known as Habitats Regulations Appraisal). The proposal is not directly connected with or necessary for the conservation management of the SAC, hence further consideration is required.

The EIAR considers potential impacts of the proposal on surface water and groundwater and hence potential impacts on the above protected areas. The report concludes that there will be no adverse impacts on the interests of the protected areas.

Adherence to best practice and other relevant guidance and the development of a Water Management Plan will ensure there is no adverse impact on hydrological/hydrogeological interests as a result of pollution (to include sediment).

We agree with the findings of the report in this respect and advise that the proposal will not adversely impact on the integrity of any protected area.

N.B *Appropriate Assessment by Moray Council has concluded that there will be no adverse impact on the integrity of the site as a result of the development.*

Scottish Forestry: No objection following clarification of the compensatory planting proposals. A condition requiring a Management Plan for the compensatory planting is recommended.

HSE (Quarries): No response at time of writing.

Innes Community Council: No response at time of writing.

OBJECTIONS-REPRESENTATIONS

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

[REDACTED]
[REDACTED]
[REDACTED]

Issue: The continued and increased use of the access track from the public road due the impact of dust, vibration, noise and speed.

Comments: The proposed extension will essentially replace the existing quarry operations with the existing working area being restored during phase 1 of the proposed works. The level of vehicle movements (approximately 14 per day) associated with the extension is the same as at present. There may be a short period of increased use while the current area is worked out and restored and the proposed area is brought into operation but the existing quarry site will be restored during phase 1 of the current development. The track is a private way and any damage to adjoining houses is a civil matter between the relevant parties. Similarly poor driving behaviour is a matter for the operator of the site.

Issue: The use of the access track by quarry vehicles inhibits its use for recreational purposes.

Comments: The use of this track by the quarry is well established and as is noted above there will be no significant long term increase in the number users of the track. The Access Manager has no objection.

Issue: The condition of the access track.

Comments: The track is a private road and its condition is a matter for the owners.

Issue: The impact on wildlife, flora and fauna.

Comments: This proposal has been subject to an EIA which included assessment of the impact on protected species and their habitats. Surveys found one tree with bat roost potential which will be retained and a squirrel drey which is to be removed. This will require a licence from NatureScot. Mitigation measures are to be put in place including the retention of woodland strips to the south and west which secure connectivity for squirrels and other animals.

OBSERVATIONS

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

The main issues are considered below:

Siting & Compliance with Mineral Policy (PP1, PP2 PP3, DP1, DP10, EP12 & EP16)

Policy DP10 (b) is supportive of the extensions of existing mineral sites which contribute to the maintenance of at least a 10 year supply of construction aggregates in Moray subject to meeting the terms of policy DP1 and all other relevant policies. Proposals must satisfactorily mitigate impacts and provide an Extractive Waste Management Plan. Policy DP10 (c) requires the submission of a detailed restoration plan which will ensure that the site is restored to a high standard at the earliest opportunity.

The proposal is for the extension of an existing quarry to allow operations to continue for a further 15 years. The presence of the existing quarry operation provides a locational

justification for this development. The expansion will help to secure the supply of construction aggregates in Moray and contribute to the ongoing success of an established local business. The site is accessible and well serviced. It is set back from the protected wartime structures on the coast and screened from general view by extensive tree cover. It will help to support sustainable economic growth in line with the Moray Economic Strategy. The development will result in the removal of trees but as is noted below this is considered to be justifiable in relation to policy EP7 and significant compensatory planting is proposed. It is suitably serviced and as is addressed in more detail below, impacts in relation to trees, protected species, noise and access can be satisfactorily mitigated. A Dust Management Plan has also been provided to ensure that this element does not lead to any adverse impacts on the surrounding area. An Extractive Waste Management Plan has been submitted in support of the application. This will ensure that soil and other by-products are suitably managed. Proposals for restoration have been provided which will see each phase of the works restored on a progressive programme. No bond is in place for the existing quarry and it is not recommended in this case as the site is owned by Scottish Forestry and the operators have an obligation to put an appropriate restoration guarantee in place under the terms of the agreement to use the site. A condition is recommended requiring evidence of this bond to be provided. It is recommended that a detailed scheme for the restoration works is sought by condition. The site contributes to the ongoing supply of building materials in Moray and all impacts can be suitably mitigated. The proposals accord with policies PP1, PP2, DP1, DP10 and EP16.

Special Landscape Area (EP3)

The application site extends to 15ha of which 2.25ha in the northern part of the site falls within the Lossiemouth to Portgordon Coast Special Landscape Area (SLA). It should be noted that both the restored quarry area and the current operational quarry area are wholly within the SLA. Policy EP3 only supports proposals in rural SLAs such as this if it involves the extension or change of use of an existing building or relates to distilling, agricultural, forestry or fishing. The current proposal does not meet any of these requirements and is therefore a departure from policy EP3. However, only 2.25ha of the 15ha application site is within the SLA and the site is set back from key views along the coast and will be largely screened by heavy tree cover. The development represents a proportionate extension to an existing quarry operation that otherwise accords with policy. It is therefore considered to be an acceptable departure from policy EP3.

Impact on Trees (EP7)

The site is owned by Forestry Scotland and is on the National Forestry Inventory. At present Lossie Forest does not meet the UK Woodland Assurance Standard in terms of species composition and diversity or age diversity. A Long Term Forest Plan (LTFP) is in place for the forest which includes proposals to fell the application site within the next 10-20 years and promote natural regeneration of Scots Pine and native broadleaves.

The proposal includes the removal of 12.02 ha of woodland of which 10.85 ha is mature commercial forestry. The remaining 1.17ha is young woodland. Part of the site will be replanted as part of the restoration of the site but part of it will remain open as wetland areas. Compensatory planting covering 13.62 ha is proposed. This will consist of 2.27 ha on site between phases, 1.54 ha for restoration, 2.91ha offsite on the current quarry location, 6.9ha off-site, 1.5km away at Milltown Airfield. Planting would consist of a mixture of commercial timber species and native broadleaves. While the proposal relates principally to the felling of commercial forestry it is considered to be woodland removal as the replanting period exceeds the normal forest restocking period of up to 5 years. The Control of Woodland Removal Policy presumes against the removal of woodland unless it

would achieve significant and clearly defined additional public benefits and recognises that compensatory planting could form part of that assessment. In this instance the proposal will bring economic benefits as it will secure the future of an established business. Furthermore, growing conditions are more favourable at Milltown Airfield and the net output per hectare will be treble that on the application site. The mix of species will also serve to aid Lossie Forest meet its targets for native woodland and will increase biodiversity in the forest. Scottish Forestry support the proposals and consider that they are in line with the Control of Woodland Removal Policy. Given the economic justification and the benefits of the proposed compensatory planting in terms of output and biodiversity the proposals are considered to comply with policy EP7. A condition is recommended to ensure that full details of all tree planting and adequate maintenance measures are put in place.

Natural Heritage (EP1, EP2 & EP12)

An Ecological Impact Assessment (EclA) has been provided as part of the application. The application site is not covered by any natural heritage designations however it is within 250m of the Lower River Spey - Spey Bay Special Area of Conservation (SAC) and the Spey Bay Site of Special Scientific Interest (SSSI). The development will impact on the hydrology of the site and the wider area which could have implications for the designated sites. Hydrology and hydrogeology are fully assessed as part of the EclA. Both SEPA and NatureScot are content with the findings of this section of the report, but SEPA recommend a condition requiring the provision of a Water Management Plan for approval. Given the potential impact on the SAC and the fact that the development is not directly related to the conservation management of the SAC Appropriate Assessment was required under the *Conservation (Natural Habitats, &c.) Regulations 1994*. The EclA identifies the following points in relation to the likely impact of the development:

- no surface hydrological connectivity exists between the proposal site and the SAC/SSSI;
- the relatively shallow depth of the maximum extraction depth (1.5mAOD) means that the impact upon the groundwater table is likely to be restricted to the immediate vicinity of the area of excavation and within the proposal site;
- this limited extent of impacts on groundwater and the distance between the site and the SAC/SSSI mean that adverse effects on the protected areas are unlikely;
- standing water within the restored area has not been impacted by the operational quarry immediately to the north east – this supports the assessment that the impacts on groundwater as a result of the proposal would be restricted to the immediate area of the site.

Based on this information and the advice from NatureScot and SEPA the Appropriate Assessment concluded that the development will not adversely impact the integrity of the Lower River Spey to Spey Bay SAC or the Spey Bay Site SSSI. Subject to the recommended condition relating to the Water Management Plan the proposals are considered to comply with policy EP1 (a).

A full ecological survey of the site was carried out and found it had potential for providing foraging and habitat for a number of species notably red squirrel, bats and nesting birds. The survey found one squirrel drey that will have to be removed to make way for the development. The removal of this will require a licence from NatureScot. NatureScot can grant a licence provided that the activity will contribute to significant social, economic or environmental benefit, there is no satisfactory alternative and there is no significant negative impact on the conservation status of the species. In this instance there is no alternative solution. Furthermore, NatureScot advise that the development would be

considered to have significant economic benefits and would have no significant adverse impact on the conservation status of the species. It is therefore concluded that a licence is likely to be granted (see **Appendix 2**). One tree with bat roost potential has been identified but this will be retained and a 5m buffer from excavation works placed around it. The impact on nesting birds will be minimised by carrying out tree felling outwith the bird breeding season or having an ecologist on site to make checks. The EclA also recommends that checks of dense vegetation takes place for any concealed badger sets or similar, exploratory excavation pits must not be left open and shallow edging must be provided to allow escape and all lighting must be fitted with shades to prevent light spillage outwith the working area. While a large area of trees will be removed as part of the development, connectivity will be retained by means of the retained woodland to the west and the south. The proposals meets the tests for granting a licence in relation to red squirrels and will not significantly impact on other protected species and the proposal therefore accords with policy EP1 (c).

The EclA recommends that a CEMP is put in place to ensure all environmental activities are properly controlled and overseen. A condition is recommended to ensure that the CEMP is submitted for approval and agreed in advance of development commencing on site. Subject to the recommended conditions the proposal complies with the relevant sections of policy EP1.

The proposed compensatory planting and restoration of the site which includes the creation of wet land areas will lead to an overall enhancement of biodiversity. It will provide more foraging and sheltering opportunities and bring a wider range of species into the site. This will be a significant improvement on the existing site which, as is noted above, currently has poor species and age diversity. The proposals will enhance the biodiversity value of the site in accordance with policy EP2.

Noise (EP14)

A detailed Noise Impact Assessment (NIA) has been provided as part of the EIAR. A bund of soil with a maximum height of 3m will be formed along the southern boundary of the site to mitigate the impact of noise from the development. This will move along the site as development progresses. The NIA assess the impacts of noise associated with the quarry on the nearest noise sensitive receptors which are a house 215m to the east of the site, a house 670m to the south west and the public footpath to the west. The report concludes that predicted noise levels will not exceed acceptable levels at the nearest noise sensitive receptors. The Environmental Health Manager is content with the findings of the report and has no objection subject to conditions to ensure that the predicted noise levels are not exceeded. A further condition is recommended limiting operational hours to 7am-6pm on weekdays and 8am-1pm on Saturdays with no Sunday working. This is a change from the working hours of the current operation which are 7am-7pm on weekdays and 7am-1pm on a Saturday. The applicant has agreed to these operational hours which will allow them to fit in with the standard working hours of the construction industry which they supply. The slightly reduced hours will be of some benefit to reduce the impact on amenity of the surrounding area. The recommended conditions will ensure that the development does not result in significant noise pollution and complies with policy EP14 (a).

Archaeology (EP8)

There are no listed or scheduled structures within the application site boundary. The wartime coastal defences to the north of the site are scheduled monuments but these are separated from the current site by the existing quarry and substantial tree cover. The

development will not adversely impact on the setting of these structures. Historic Environment Scotland have no objection to the proposal.

The site is an area of known archaeology. It is recognised that the heavy tree cover may have led to damage of archaeological remains by roots etc. but there is potential for features to survive at lower depths. Finds in the vicinity indicate the possibility of prehistoric activity in the area and there is evidence of medieval cultivation and settlement on the site. There are also World War Two defences in the form of two anti-landing ditches on the site. These are part of a series of ditches and other anti-landing defences formed to protect Milltown Airfield. The two that cross the application site would be largely obliterated by the development.

A detailed programme of archaeological works is proposed including metal detecting, a field survey and a watching brief across the whole site. Where necessary, post excavation analysis will also take place. The Council's Archaeologist has no objection subject to a condition to ensure that an acceptable Written Scheme of Investigation (WSI) is provided and carried out. Subject to condition the proposal complies with policy EP8 (b).

Access (DP1)

The site is accessed via an existing track which serves the current quarry. The track joins the public road to the south west of the application at Inchbroom Farm. The level of trips associated with the proposed extension will be the same (approximately 14 trips per day) as those associated with the current operations. The proposal will replace the current working area with restoration of the current operational area anticipated to be carried out during phase 1 of the proposed development. Therefore there will be no long term increase in the level of traffic associated with the development but the development will increase the period over which this activity will occur. The access arrangements will be unchanged from those operating at present but it is noted that the condition of the access to the public road has deteriorated during the lifetime of the existing quarry with particular concern regarding the lack of adequate drainage and the build up of loose material at the junction. To address this matter, the Transportation Section has recommended a condition to ensure that the access to the public road is upgraded to an acceptable standard; this includes the provision of suitable drainage, measures to prevent loose material building up at the access, proposals to remove or improve the existing left turn diverge and the resurfacing of part of the public road. A further condition to ensure adequate visibility is maintained is also recommended. The recommended conditions will ensure safe access to the public road and address any adverse impacts on the public road network. Subject to these conditions the proposals accord with policy DP1 (ii) (a & b).

Recommendation

The application is for the extension of an existing quarry to secure supplies for a further 15 years. The development is appropriately sited alongside an existing operation in a location that is well screened and easily accessible. The proposal will contribute to the supply of cobbles and sand in Moray and help support a successful local business. The impacts of the development have been fully assessed and where necessary mitigation is recommended. The proposal is a minor departure from policy in that a portion of the site is within the SLA but given that it is an extension to an existing business (fully located within the SLA) and that the site is well screened and away from key coastal views this is considered to be acceptable. The proposal otherwise accords with policy and subject to the conditions set out in the papers it is recommended that planning permission is granted.

REASON(S) FOR DECISION

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

On the basis that the proposal is for an extension of an existing quarry, would contribute towards the long-term planning for the provision of construction aggregates in Moray and is in a good, accessible location which is well screened and not considered to have a significant impact on the special qualities of the Lossiemouth to Portgordon Coast Special Landscape Area (SLA), the proposed development is an acceptable departure from Policy EP3. Notwithstanding the deviation from policy EP3, subject to conditions as recommended, the siting, layout and restoration of the development are considered acceptable and otherwise accord with the development plan with no unacceptable or significant adverse effect upon the surrounding environment and there are no material considerations that indicate otherwise.

**Author/Contact
Officer:**

Lisa Macdonald
Senior Planning Officer

Ext: 01343 563479

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

APPENDIX 1

POLICY

Proposed Moray Local Development Plan 2020

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;

- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

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

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active

travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

v) Biodiversity

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

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.

- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP3 INFRASTRUCTURE & SERVICES

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

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

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

(ii) Transportation

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

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

(iii) Water environment, pollution, contamination

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

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

DP10 MINERALS

a) Safeguarding Mineral Reserves

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

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

b) Mineral Operations

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

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

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

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

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

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

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

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

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

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

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

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

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

b) National designations

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

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

c) Local Designations

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

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

d) European Protected Species

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

survey should be carried out by a suitably experienced and licensed ecological surveyor.

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

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

e) Other protected species

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

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

EP2 BIODIVERSITY

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

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

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

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

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

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER

i) Special Landscape Areas (SLA's)

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

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

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

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

b ii) Landscape Character

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

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon

the local hydrology and takes account of recreational use of the track and links to the wider network.

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

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

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

c) Control of Woodland Removal

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

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

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

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

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

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

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and

hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

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

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

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

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

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

Landscape Scheme

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

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

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

EP8 HISTORIC ENVIRONMENT

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

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

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant

adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

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

c) Hazardous sites

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

Appendix 2

The Council, as competent authority is required to assessed the planning application against the following three tests set out in the Habitats Regulations 1994 (as amended) and to satisfy itself that all three can be met prior to granting planning permission:

European Protected Species - Bats (Reg. 44(2) of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) tests 1, 2 & 3.

Test 1 - Licensable purpose (justification for preserving public health, public safety and public interest): The proposal involves the extension to an existing quarry which will have significant economic benefits. All impacts in relation to trees, hydrology, noise and access have been fully assessed as part of the planning application, the proposal will not result in adverse impacts upon public health, safety or interest. The proposal is a minor departure from the development plan in that it is partially located within the Lossiemouth to Portgordon Coast Special Landscape Area (SLA) but given the location and history of the site this is considered to be acceptable and the proposal otherwise accords with the development plan. Test 1 is met.

Test 2 - No satisfactory alternative: Permission is sought in this case for the extension of an existing quarry. A locational justification is provided in that the site is adjacent to the existing quarry where less than 1 year's supply remains.

Test 3 - Favourable Conservation Status (action will not be detrimental to the maintenance of the EPS population): NatureScot has reviewed the submitted bat survey report/mitigation and is satisfied that there will be no negative overall effect on this particular bat species population at local level. Test 3 is complied with.

WARD 07_17

21/00739/APP
20th May 2021

**Residential development of 53 dwellinghouses
 landscaping and associated infrastructure on Land At
 CF4 South Glassgreen Elgin Moray
 for Springfield Properties PLC**

Comments:

- Advertised as a departure from Moray Local Development Plan 2020.
- Proposal to be reported to Committee under the scheme of delegation where the proposal exceeds 50 house units and where it falls within the category of “major development” as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.
- 2 representations have been received.

Procedure:

- If Members are minded to approve, a separate Section 75 legal agreement is required prior to issuing planning consent to see delivery of the Developer Obligations agreed. A further modification to the existing Elgin South Section 75 legal agreement may be required to secure the relocation of the Glassgreen Primary site within the legal agreement area (and in accordance with the approved Final Draft updated Elgin South Masterplan).

Recommendation **Grant Planning Permission - Subject to following:**

Conditions/Reasons

1. Unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager, the air source heat pump at the proposed dwellings shall be the Daikin Altherma H Hybrid Outdoor Unit model EJHA04AAV3, confirmed by supporting email from the applicant to the Environmental Health Section on 5th July 2021 at 17 :20 hours, and the sound power level of the unit shall not exceed 58.7 dB (A), as confirmed in Page 7 Product catalogue supporting document for the identified model.

Reason: In order to ensure the agreed type of air source heat pump is installed, for which the noise levels are known and agreed.

2. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 – 1900 hours, Monday to Friday and 0800 –

1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In order to ensure the amenity of neighbouring properties is not adversely affected.

3. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house or flat.

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

4. Parking provision for houses shall be provided at the following rates:
 - a. 1 Bedroom = 1 space.
 - b. 2 -3 Bedrooms = 2 spaces.
 - c. 4 or more bedrooms = 3 spaces.

Parking for flats (Plots 401-408, 429-432 and 442-445) shall be provided as shown on Drawing EL02_PL_SL_16 including provision of 2 visitor car parking spaces and bicycle stores (with a minimum of 1 cycle space per flat). Parking shall be provided prior to the completion of each house or flat which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

5. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

6. No works shall commence on any area proposed for development until a

Construction Traffic Management Plan for the respective area has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- a. duration of works;
- b. construction programme;
- c. number of vehicle movements (i.e. materials, plant, staff, components);
- d. anticipated schedule for delivery of materials and plant;
- e. full details of any temporary construction access;
- f. full details of construction traffic routes from the A941 and A96 to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
- g. measures to be put in place to prevent material being deposited on the public road;
- h. measures to be put in place to safeguard the movements of pedestrians;
- i. traffic management measures to be put in place during works including any specific instructions to drivers; and
- j. parking provision, loading and unloading areas for construction traffic.

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

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

7. No development shall commence until a Travel Information Pack, which sets out opportunities for travel by foot, cycle and public transport, has been submitted to, and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Travel Information Pack shall include:
 - a) information on routes for pedestrians and cyclists to access local facilities;
 - b) information on the provision of bus services serving the development;
 - c) details of how to access personal Travel Planning and of incentives to travel by foot, cycle and public transport; and
 - d) details of the programme for updating the Travel Information Pack as the development progress, to be carried out annually.

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

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

8. Prior to the commencement of any part of the development accessed from the A941 Elgin to Dufftown Road, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
 - i) a detailed drawing (scale 1:500) showing the location, design specifications and timescale for delivery of the access to the development on the A941 including the proposed design speed, visibility splay requirements and

- junction type; and
- ii) details of all changes/modifications to the design, to be informed by a Stage 1/2 Road Safety Audit (RSA) for the proposed junction, and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings.

Thereafter, the development access, bus laybys and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety through the provision of information currently lacking from the submission.

9. No development shall commence until the following details, including drawing(s) (scale 1:500 minimum) and timescales for delivery, have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority and where appropriate, the Head of Housing & Property for the junction design for the proposed access from the A941 to include provision for pedestrian access to southbound bus stop. Pedestrian access to the southbound bus stop shall be provided and maintained in accordance with the approved details and agreed timescales.

Reason: To ensure acceptable infrastructure is provided linking the development area to cater for movements by foot, cycle, vehicle and public transport through the provision of details not yet approved.

10. No development shall commence on any area proposed for development until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding the formation of any required/proposed construction access(es) (which includes any temporary access(es) to the area proposed for development from any public road. The details shall include:
 - a) a drawing (scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
 - b) specification of the materials used for the construction access(es);
 - c) all traffic management measures required to ensure safe operation of the construction access(es);
 - d) details including materials for the reinstatement of any temporary construction access(es); and
 - e) details regarding the timescale for the opening up and closure of any temporary access(es) together with the time-period over which the temporary access(es) will be used.

Thereafter, the works shall be provided 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.

11. The landscaping hereby approved must accord with the amended landscaping plan SPE 101.21 SL-11 dated 23 November 2021. Unless otherwise agreed with the Council as Planning Authority, in addition to landscaping proposed on this

landscaping plan, semi-mature indigenous trees must be added in the front curtilage of plots 435, 436, 412 and 413. All planting must be completed no later than the first planting season following completion of the final housing unit. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council, as Planning Authority gives written consent to any variation of this planning condition. The landscaping hereby approved must also be maintained in accordance with the "Schedule of Services - Glassgreen Openspace and SuDs Infrastructure Maintenance Schedule" document submitted with the application.

Reason: In order to ensure the visual impact of parking on front curtilages is minimised by the presence of appropriate landscaping.

12. Further to the reference to the public art in the open space area on the southern side of the site referred to on Site Layout drawing EL02_PL_SL_13 Rev F prior to occupation of any dwellings, details of the public art must be submitted to and approved by Moray Council. The installation must thereafter be built in accordance with the approved details and completed prior to occupation of last housing unit.

Reason: In order to give further consideration to proposed public art installation and to ensure it is timely provided.

13. Unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Housing Strategy and Development Manager, the affordable housing approved under planning application 21/00304/APP must be completed no later than commencement of the 35th housing unit of this consent hereby approved. Similarly the 2 affordable units proposed within this site, must be also be provided no later than the 35th housing unit upon this site.

Reason: In order to ensure the timely provision of affordable housing associated with the development.

14. Prior to the commencement of any works, a Construction Environmental Management Plan incorporating a site specific pollution prevention plan shall be submitted to and approved in writing by the Council, as Planning Authority including a site specific pollution plan; and must include site specific mitigation measures to address dust, artificial light, vibration and noise impacts during construction and ecological management. Thereafter all work shall be carried out in accordance with the approved plan.

Reason: In order to prevent potential pollution of the environment and minimise impacts from construction works on the environment.

15. 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.

16. The development hereby approved for 53 house units will contribute towards the wider trigger set by Transport Scotland relevant to Elgin South planning permission 18/01209/APP whereby collectively no development beyond Phase 1A (295 residential units plus Moray Sports Centre and (Linkwood) Primary School as defined on drawing EL44_SL_09 Rev L) until:
- a) details (which may include evidence from Transport Scotland) have been submitted to the Council, as Planning Authority to confirm that the Trunk Roads Authority has completed the upgrading and realignment of the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme;

OR

- b) a Transport Assessment for each sub-phase has been submitted to the Council, as Planning Authority and that any trunk road mitigation measures necessary to off-set the impact of the sub-phase have thereafter been implemented in accordance with a timescale identified by the Transport Assessment to the satisfaction of the Council, as Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale of development beyond the development hereby approved in addition to Phase 1A of 18/01209/APP is supported by a Transport Assessment, and to ensure that the scale and operation of the proposed development beyond the development hereby approved in addition to Phase 1A of 18/01209/APP do not adversely affect the safe and efficient operation of the A96 trunk road network.

17. Prior to development commencing and further to the information accepted within the submitted Drainage Assessment, the following information must be submitted to and approved by the Council, as Planning Authority in consultation with the Moray Flood Risk Management Team.
- a. details of the flood flows across the site illustrating that flood water would be contained within the new development and not put any property at flood risk
 - b. Confirmation that the existing system has the capacity to convey the additional flows from the new system and there is adequate attenuation within the existing system SuDS to store the additional surface water.

Reason: In order to confirm the appropriate design and capacity features are included in the drainage proposals for the development.

18. The environmental mitigation measure proposed on page 13 of the submitted “Extended Phase 1 Habitat Survey and Biodiversity Actions” dated May 2021 and he submitted “South Glassgreen Wildlife Enhancement and Mitigation Document” dated November 2021 must be complied as the site is developed. All bat and bird boxes, and other features must be in place in the first nesting season following completion of the landscaping works and planting.

Reason: To ensure that any impact on the natural environment is kept to a minimum and to enhance the habitat for fauna following development being completed.

Reason(s) for Decision

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

The proposal accords with all relevant policies of the Moray Local Development Plan 2020 other than Elgin Settlement designation community facility designation CF4 for a primary school site. There now being an alternative more appropriate school site identified within the Final Draft Updated Elgin South Masterplan, the current CF4 site may be released for housing as an appropriate alternative use as the Council is satisfied with the suitability of the proposed new primary school site and is being included within the revised Elgin South Masterplan to be adopted.

List of Informatives:

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

A Building Warrant will be required for the proposals. Should you require further assistance please contact the Building Standards Duty Officer between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail buildingstandards@moray.gov.uk

A S.75 Legal agreement for the Developer Obligations that has been agreed has been signed and registered.

THE TRANSPORTATION MANAGER has commented that:-

No kerbing details have been provided however based on the details shown for plots, 413-414, 422-423 and 449-450 these plots would be likely to result in excessive continuous dropped kerb arrangements. Details for the proposed kerbing require approval through the Roads Construction Consent statutory process.

The provision of Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between

charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority. Guidance on Electric Vehicle (EV) Charging requirements can be found at:

<http://www.moray.gov.uk/downloads/file134860.pdf>

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

Requirement for any traffic calming, road construction materials and specifications and any SUDs related to the drainage of the public road must be submitted and approved through the formal Roads Construction Consent process.

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

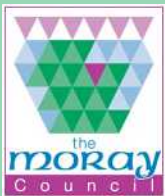
No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

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

| LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT | | |
|--|-------------|--|
| Reference No. | Version No. | Title/Description |
| MC/2018/Z/03 | B | Z Type option 2 - elevations and floor plans |
| EL02-ENG-210 | | Indicative utility layout |
| EL02_PL_SL_16 | | Parking provision |
| EL02_SL_17 | | EV charging |
| MC/2018/CS(dt)01 | | CS Type - elevations and floor plans |
| SPE 101.21.SL-11 | | Planting plan |
| EL02_LP_0417 | | Location plan |

| | |
|---------------------|---|
| 1224dt(AS)601 H | Arden house type |
| 950sd(AS)901 E | Ardmore house type |
| 652/727cf(--)901 C | Auldearn apartment house type |
| EL02-ENG-200 | Swept path analysis |
| EL02-ENG-320 A | Levels layout |
| EL02-ENG-550 | Adoption layout |
| EL02-ENG-600 B | Drainage layout |
| SR-901 | Standard sun lounge elevations and floor plan |
| SPE 101.21 SL-01 | Landscape proposal |
| SPE 101.21 LA-01 | Landscape analysis |
| 1287dt(as)901 C | Balerno house type |
| BINSTORE_01 A | |
| 1339dt(AS)901 G | Braemar House type |
| EL02_PL_CF01 | Cottage flats house type |
| 1932ct(AS)901 F | Culbin house type |
| 1073sd(--)901 K | Cupar house type |
| 932te(AS)901 A | Dallachy house type |
| | Horizontal 2 bike locker |
| 1653dt(AS)901 A | Kintore house type |
| 1104dt(AS)901 C | Lauder house type |
| 1237dt(--)901 B | Nairn house type |
| 1202dt(AS)901 D | Roslin house type |
| EL02_PL_SL_13 F | Site layout |
| EL02_PL_SL_14 B | House type allocation |

| | | |
|---------------|---|---------------------|
| EL02_PL_SL_15 | B | Material conditions |
|---------------|---|---------------------|



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

21/00739/APP

Site Address:

Land At CF4 South

Glassgreen

Elgin

Applicant Name:

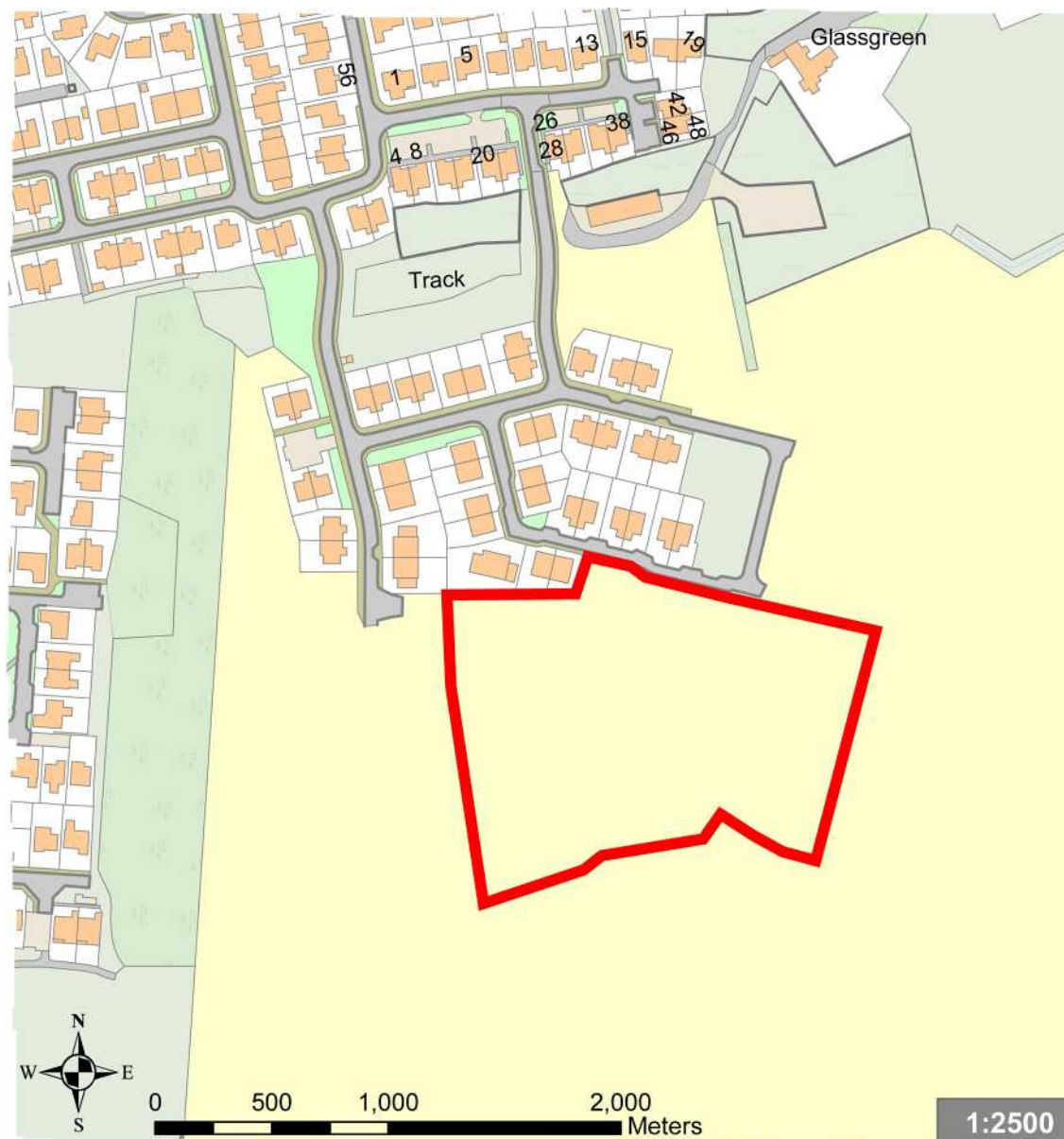
Springfield Properties PLC

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Location Plan



Site layout



Landscape layout



View from A941 looking west across site



View from west edge of site



PLANNING APPLICATION: 21/00739/APP

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

THE PROPOSAL

- Erect 53 houses inclusive of 2 affordable housing units
- 6 accessible housing units are proposed.
- A small open seating area is proposed and landscaping and seating which will also host some public art.
- Several access road into the site are proposed from the surrounding consented housing permissions.
- A SUDs drainage basin is proposed on the north side of the site.
- 6 visitor parking spaces are proposed on the south side of the site.

THE SITE

- Designated as CF4 (Community Facility) prospective South Glassgreen new primary school as designated in Moray Local development Plan 2020 (MLDP)
- There are no national, regional or local environmental cover the site.
- The site is approximately 1.8ha in area.
- The site is currently vacant, but has been used a laydown space or storage for building materials associated with the adjoining Elgin South development.

HISTORY

Relevant history across Elgin South

16/01244/APP - Phase 1 of Elgin LONG2 south to include 870 houses neighbourhood uses including Classes 1 shops 2 financial professional & other services 3 food & drink 4 business 8 residential institutions 10 non-residential institutions Moray Sport Centre (with provision for indoor & outdoor recreation) two primary school sites and associated infrastructure (transport drainage & open space) and landscaping at Elgin South, Elgin, Moray. Approved by Committee on 10 May 2018 following conclusion of the legal agreement.

18/01209/APP - Application under Section 42 to vary condition 1 of planning consent 16/01244/APP to maintain provision for 870 houses (as approved) but vary phasing design and site layout details i.e. adjust Phase 1A boundary (western most part of Phase 1A within Crescent North and South Glassgreen character areas) to provide 50 affordable homes together with consequential revisions to boundaries of Phase 1D (South Glassgreen) and eastern most part of Phase 1A (Meadows North character area) and Phase 1C (Meadows East character area) revise mix of homes (including site layout and new Braemar and Lauder house types) within Crescent North and South Glassgreen

character areas revise layout and reduce number of houses by 18 units within Village Garden character area to accommodate revision to alignment gas pipeline revise numbers and mix of houses including site layout within Village Core and Meadows East character areas to accommodate 18 homes relocated from Village Garden at Elgin South, Elgin Moray. Approved by committee in 15/05/19.

18/01603/S75 - Section 42 application to vary the phasing condition (Condition) of Proposed modification of planning obligation (associated with application 16/01244/APP) for Phase 1 development at Elgin LONG 2 South to apply to development occurring under planning applications 16/01244/APP and 18/01209/APP at Elgin South LDP2015 Long 2 Elgin Moray. Concluded in May 2019.

19/00666/APP - Substitution of house types on Plots 1-4 Crescent North (as per 16/01244/APP) at Elgin South, Elgin, Moray. This saw a remix of house types already approved elsewhere within the Elgin South development. Approved under delegated powers on 10/03/20 and required a modified Section 75 agreement.

19/01641/APP - Remix of plots 37 - 40 and 44 - 47 at (8no total) Crescent North Elgin South Elgin Moray. This saw a remix of house types already approved elsewhere within the Elgin South development. Approved under delegated power in April 2020.

21/01163/APP - Residential development landscaping and associated infrastructure at Glassgreen Village Phase 2, Elgin South. Pending application for 192 house units, commercial units and associated infrastructure, landscaping and drainage. This application is pending consideration.

21/00206/APP - Application under S42 to vary condition no 2 of planning permission 18/01209/APP - phasing to reflect updated masterplan 2021 along with revisions to layout and substitution of Plots 122 to 129 at Glassgreen Elgin South, Elgin. This site was approved at committee on December 2021 and is awaiting modification of the legal agreement prior to the issue of planning permissions.

21/00396/APP - Plot substitutions at No's 1-43 and 47-50 (total no of plots are decreased from 47 to 35) at Glassgreen Elgin South, Elgin. Lying adjacent to and north of CF4, this site was approved at committee on December 2021 and is awaiting modification of the legal agreement prior to the issue of planning permission.

21/00304/APP - Amended approved houses types approved under ref 18/01209/APP from 16 private homes to 15 affordable homes on land at Plots 44 to 62 South Glassgreen Elgin South, Elgin. This application lies immediately north of CF4 and is proposed to provide the necessary affordable housing associated with the development proposed under this report for 51 private and 2 affordable. This application will likely be determined on the same day, as the application subject of this report.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised as a departure from Moray Local Development Plan 2020 and specifically designation CF4 as defined in Elgin Settlement Statement.

CONSULTATIONS

Housing Strategy and Development Manager – No objections following the revisions to affordable housing now proposed and the provision of affordable housing under reference 21/00304/APP.

Transport Scotland – No objection subject to a condition setting triggers in conjunction with planning permission 18/01209/APP, whereby either the Hardmuir to Fochabers section of the A96 Dualling programme has been progressed, or Transport Assessments can otherwise provide evidence that other phases may proceed.

Scotland Gas Networks Ltd - No objection but further discussion with the developer should occur to ensure pipelines and the integrity of the servitude or easement area are not compromised. *Officer Note: it is noted the applicant and SGN have already been in direct discussions over this and the applicant is aware of the wayleaves and protection required of the gas pipeline.*

Environmental Health Manager - Approve subject to conditions relating to the noise output of air source heat pumps and a condition relating to hours of construction activity.

Contaminated Land - No objection.

Transportation Manager - Approve subject to conditions and informatives.

Scottish Water - No objections, but various advice offered re Scottish Water assets etc. Letter passed to applicants.

Strategic Planning and Development - The application proposes 53 units on the site identified as CF4 in the LDP 2020. The site was previously identified as the location for a primary school in the now superseded version of the Elgin South Masterplan.

The Elgin South Masterplan was recently revised and updated to reflect the LDP 2020 and other newly identified issues such as the requirement for a larger school site in the Glassgreen area and the proposed A96 duelling.

The approval of the Masterplan by the Planning and Regulatory Services committee was also on the basis that land designated as CF4 for a primary school is not released for development until the Council is satisfied as to the suitability of the proposed new primary school site.

DP2 Housing

The South Glassgreen character area where this application is located has recently been subject to a number of remix applications. It has been agreed with the applicant that in this instance the affordable housing requirements will be met through a combination of this application and planning application 21/00304/APP which is proposing to change 16 private units to 15 affordable. It is proposed to determine this application at the same time as this one.

As 68 units are being proposed across both applications, 17 affordable units are required. With 15 units being proposed under 21/00304/APP, two units were required to be

provided under this application to meet this policy requirement.

Through discussions with the applicant these 2 additional units have now been provided on site within this application and meets the mix provided by Housing and Property Service.

The proposal is therefore deemed to comply with DP2.

PP3 Placemaking, DP1 Development Principles

Throughout the determination of this application a number of revisions were made to the layout in order to meet the policy requirements set out PP1 Placemaking. A Quality Audit was undertaken which accompanies this response which reflects the changes made to the layout. Following revisions by the applicant to the original proposal, the QA scored “green” in all but one (parking) category and this is addressed below.

Character & Identity - Although the application site is within the wider South Glassgreen character area the placemaking statement shows that it is proposed to provide differentiation through the creation of 4 smaller character areas or streets. To achieve this it is proposed to use different colours of timber cladding, landscaping, and hedging within each area. Key buildings are also being proposed on the southern edge which will be differentiated with a different cladding.

Parking - The applicant has made revisions to the original layout to seek to comply with the parking requirements of PP1. The proposal meets the quantitative aspect (i.e. minimum of 50% of car parking spaces located to the rear or side of the building line) on the majority of streets. One street (plots 434-441 & 411-414) fails to achieve this however given this is an infill site and the front curtilage parking is primarily located in the plots within the northern ‘spur’ of the street which is mitigated by semi-mature trees within plot 436 the parking will be largely obscured from view in the streetscape when travelling north through the development. Therefore in this instance this is considered to be an acceptable departure from PP1.

All communal parking areas meet the policy requirements and have been broken up in intervals of 4 with landscaping and semi-mature tree planting.

Open Space & Landscaping - Two areas of open space are being proposed within the development. The central area of open space will create a focal point with seating and a variety of planting (see section below). There continues to be a discrepancy between the landscape and parking plans. Semi-mature trees within plots 412, 413, 435 & 436 will require to be conditioned should the application be recommended for approval to ensure this planting is delivered, which is particularly prudent for plot 436 given the above.

Policy EP5 Open Space

EP5 requires open space within new developments to meet standards for quantity and quality to ensure the delivery of multifunctional open space.

Following discussions with the applicant the central area of open space has been increased in size making it a focal point within the development. While it is acknowledged that in this instance it is not possible to remove the SUDs pond due to a significant amount of drainage infrastructure already being in place, it has been improved with more varied planting, rain gardens, hedging, and by providing seating areas for residents to use ensuring it has a function and providing space for social interaction.

On this basis the proposal was scored during the QA process and achieved over 75% meaning that it is deemed to comply with policy.

In conjunction with the other smaller area of open space that will be provided on the southern edge of the site the overall open space provision is deemed to be acceptable and complies with PP1 the quantity and quality standards of policy EP5 Open Space.

EP2 Biodiversity

The applicant has provided a Wildlife Enhancement and Mitigation document to show how the layout will support biodiversity. This has been submitted in addition to the detailed landscape plan.

This includes the provision of a variety of bird and bat boxes, hedgehog highways, and details on how the proposed planting within the development will support a variety of animals and insects.

Conclusions from Strategic Planning and Development consultation

The proposal has been considered against policies PP1, PP3, EP2, EP5, DP1, and DP2 and is deemed to comply. In summary;

- The proposal scored green in all but one (parking) category of the QA. Although the quantitative requirement for a minimum of 50% of car parking spaces to be located to the side or rear and behind the building line has not been achieved on one street this is considered to be acceptable in this instance given the proposal is an infill site and the semi-mature trees located within plot 436 will screen the front curtilage parking in the northern 'spur' of the street thereby reducing the visual dominance in the streetscape. A condition is required to ensure the trees are provided for plots 435, 436, 412 & 413 as there is a discrepancy between the parking and landscape plans;
- The areas of open space have been improved to ensure they have a function and provide a focal point within the development that will contain seating, rain gardens, and be planted with a variety of species;
- The layout has incorporated a number of measures to support and enhance biodiversity;
- The layout provides the affordable housing requirements within this site and in conjunction with 21/00304/APP

The proposal is supported on the basis that the proposal complies with all other relevant LDP policies which other consultees will comment on.

Planning and Development Obligations – Developer Obligation payment of £413,975.89 is required in relation to secondary school provision, transport requirements and healthcare. A legal agreement will be put in place to deliver this contribution for the increase in new housing proposed.

Building Standards Manager – A Building Warrant will be required.

Moray Flood Risk Management – No objection, but additional clarification required on some flood flow detail and details not contained within the submitted Drainage Assessment.

Moray Access Manager – No objection.

Scottish Environment Protection Agency – *Officer Note - following consideration of standing advice and discussion with SEPA, no matters arise from this proposal requiring their formal input and where no housing is affected by flooding.*

Aberdeenshire Council Archaeology Service – Approve subject to a condition to ensure potential of previously unrecorded archaeology to survive within the proposed development area is recorded.

OBJECTIONS-REPRESENTATIONS

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

[REDACTED]
[REDACTED]

Issue: Visual impact on privacy from the front, side and rear of objectors privacy due to the house types proposed.

Comments (PO): Whilst the proposals do include 2 storey dwellings/flats, they are proposed to be an adequate distance from existing properties. Within an urban setting, some degree of overlooking is to be expected between residential properties.

Issue: The proposed layout will see three different gardens back to back with the neighbours garden. The ground floor bedroom with patio doors will be overlooked by the 3 gardens.

Comments (PO): Beyond the gardens proposed, a communal parking area will also lie adjacent to one of the residential properties. It is not considered that the proposed garden sitting adjacent to existing gardens is incompatible. The rear gardens are also separated by an existing 1.8m timber fence.

Issue: The proposals will result in a loss of light and overshadowing of the objectors property.

Comments (PO): One of the properties proposed adjacent to the objectors properties is single storey in construction while the flats and semi-detached houses to the south are two storey. The houses immediately to the south are approximately 18m from the rear façade of the objector's property while the flats to the south east are perpendicular to and approximately 15m away from the nearest corner of the objectors property. The proposed buildings are sufficiently far from the objectors properties so as not to detrimentally affect their light. The spacing between existing and proposed housing is comparable to distancing other properties throughout Elgin South. It is also noted that the objectors rear garden is bound by a 1.8m high timber fence.

Issue: There is inadequate parking to the front of properties for residents and visitors. The stacked cars in driveways will mean car manoeuvring more with more noise, headlights and congestion.

Comments (PO): Parking requirements in force by Moray Council now require additional parking within plots where garages are less than 3m x 7m, which means most plots have 2-3 off street parking spaces. The development also includes additional visitor parking.

Issue: The proposed houses will bring noise and disturbance and this will also occur while it is a building site with machinery and banging from 7am onwards.

Comments (PO): Condition 2 recommends that construction work does not commence until after 8am in the morning. It is appreciated that whilst a construction site, some noise disturbance will occur, but this will only be temporary in nature. The subsequent noise and disturbance generated from domestic noise from the new houses is not considered to be different than that from the existing residential properties.

Issue: The building works being carried out already generate sand blow and light pollution into the objectors property.

Comments (PO): A condition is recommended requiring a Construction Environmental Management Plan (CEMP) which includes a requirement for mitigation measures for dust and construction lighting.

Issue: The development will be environmentally unfriendly, as there is much wildlife visits the area. The construction environmental management plan recommended in conditions should help mitigate any environmental impacts.

Comments (PO): The site lies within the Elgin settlement boundary and is already designated for development. This site has already been disturbed by construction activity and from visits has already is not considered to be of high ecological value.

Issue: Building the houses will reduce the objectors view.

Comments (PO): Possible loss of views is not a material planning consideration.

Issue: When the objector bought their house in Dec 2020 they were not informed that there would be any other development behind them.

Comments (PO): Whether or not the seller chooses to inform of other consented development in the vicinity is a matter outwith the Councils control. The planning history and designation status of this plans has been in the public domain for some time and permission for a school upon this site existed since 2018.

Issue: Local services such as hospital and chemists are already bursting at the seams.

Comments (PO): The applicants are paying a developer obligation contribution towards local healthcare.

Issue: There is a problem with weeds growing through the fence into the objectors garden, which the objector being disabled cannot address themselves and the council will not attend to.

Comments (PO): This would not be matter relevant to the determination of the planning application. If development commenced, the land adjoining the neighbour would either be private garden ground, or communal space maintained by the developer.

Issue: There is no local bus route to Findlater Lane, taxi services are expensive and there are no local retail shops.

Comments (PO): The latest proposed phase of Elgin South includes provision of local neighbourhood commercial/retail units and as more of Elgin South is built out, the possible need for a bus route will be considered by the Councils Public Transport Unit. While

Findlater Lane remains incomplete, and has not through-road as yet, it would not be suitable for public transport.

Issue: The objector has had drainage issues with the developer.

Comments (PO): Whilst the objector has not expanded upon what these specific issues have been, the applicants have submitted adequate drainage proposals for the development, and neither SEPA, nor the Councils own Flood Risk Management Team have raised any issues with the proposed drainage arrangements for the site.

Issue: Annoyance at building material already being allowed to be stored at this location without planning permission, which has caused annoyance and disturbance with the machinery used to move it.

Comments (PO): Planning permission does exist to the east of the objectors properties for housing, and for the land to the south, whilst approval exists only at the moment for principal of a primary school site, permitted development rights do exist for construction compound to exist adjoining permitted development sites. The storage of building material and initial ground clearance works, would be therefore constitute a breach of planning control.

OBSERVATIONS

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

Background

This application is being considered in conjunction with planning application 21/00304/APP which lies adjacent to this site, and is composed entirely of 15 affordable housing in an area that was previously approved under 16 private house units under 16/01244/APP and 18/01209/APP. This change is proposed to ensure a proportionate amount of affordable house units are provided if this planning application for 53 housing units is approved and where it only proposed 2 new affordable house units.

The main issues are considered below:

Principle of Development CF4 school site for housing

Moray Local Development Plan 2020 (MLDP) Elgin Settlement Statement, and the original adopted Elgin South Masterplan designated an area 2.5ha to be safeguarded for a future primary school at South Glassgreen. This was affirmed in the approval of planning applications 16/01244/APP and 18/01209/APP.

It is noted that while CF4 planning designation as shown in MLDP identified an area approximately 2.5ha, during the consideration of planning application 16/01244/APP the proposed school site shrunk to occupy an area approximately 1.8ha of this designation, as this was the area sought by Moray Council as required for a future primary school at that time and was accepted and approved in 2018. Subsequent to this approval educational requirements now mean a site of 2.5ha is required for a future primary school. With the consented 1.8ha site now bound on 3 sides by approved housing development, some of which has been completed or commenced, the need for a larger primary school site required an alternative location. Working with the developer Springfield Properties, the

updated Elgin South Masterplan revisited a number of issues in Elgin South, such as re-phasing the development and including the need to establish a suitable alternative location for a 2.5ha primary school site at South Glassgreen.

A 2.5ha area, approximately 150m south of the CF4 designation has been identified within the updated Elgin South Masterplan, which is now identified as the 'Glassgreen School Site'. The new school site is also repositioned marginally further southward to be located more centrally within the wider Elgin South site (its likely pupil catchment) and to benefit better from road and active travel linkages. A range of neighbourhood retail, flexible commercial and community hub units will be provided within proximity to the new school site for South Glassgreen.

The updated Final Draft Elgin South Masterplan was accepted as a material consideration by Moray Council at Committee in August 2021, but with the caveat that the CF4 school site could not be released until such time as further site investigations has been concluded to ensure the 'Glassgreen School Site' was suitable to host a new school. These investigations covering aspects such as ground conditions and other constraints has been carried out on behalf of Moray Council and has recently concluded that the Glassgreen School Site is acceptable to host a new primary school. Upon this basis, this planning application seeking to replace the CF4 designation with residential development, can be treated as an acceptable departure from MLDP where a suitable larger school site is identified in the updated Elgin South Masterplan.

As this proposal seeks new housing above and beyond the 870 housing units approved under Elgin South planning permissions 16/01244/APP and 18/01209/APP and the associated legal Section 75 agreement it stands to be assessed separate from the various obligations and triggers set in that development. Notwithstanding the more detailed analysis below, the principle of housing in the area, comparable to the other residential development approved immediately to the west, north and east of the site is acceptable.

Placemaking, Siting and Design (PP1, DP1 and DP2)

Policy PP1 Placemaking sets out that sufficient information must be provided to allow the Council to carry out a Quality Audit (QA) of the proposal. As noted in the Strategic Planning and Development Team's response this Audit process has been undertaken and the application has been subject of a number of meetings and correspondence. Initial issues were identified and during consideration of the proposals revisions made to address the changes sought. The QA assessed the proposal against the 7 fundamental placemaking principles of Policy PP1. In order to comply with PP1 and deliver a distinctive place with all the associated health and environmental benefits proposals require to achieve "green" ratings and this has been achieved in all cases as set out in the table below.

This shows the series of issues identified with the first QA which led to "red" ratings. These were addressed through the submission of revised plans leading to "green" ratings subject to the mitigation set out in the table. This mitigation relates to points of detail which can be addressed by planning conditions, with the revised submission satisfactorily demonstrating that the development delivers on all the placemaking principles.

Following an initial and further detailed quality audit process for the proposed development the below progression can be summarised.

| QA Category | Score | Mitigation | Revised Score | Mitigation/Conditions necessary to score green |
|-------------------------------|-------|--|---------------|--|
| Character & Identity | | <ul style="list-style-type: none"> All issues relating to car, parking, open space, landscaping, and biodiversity as set out in the QA must be addressed. | | Condition semi-mature trees in front curtilage of plots 435, 436, 412 and 413. Otherwise amended landscaping plans acceptable. |
| Healthier, Safer Environments | | <p>The proposed cyclepath between plots 405-410 runs adjacent to the private driveway serving plots 409 and 410. This arrangement has been used historically on a number of other sites but is no longer considered acceptable.</p> <p>Transportation have provided comments in their planning consultation response</p> | | Condition for details, delivery timescale and maintenance arrangements for public art. |
| Housing Mix | | <ul style="list-style-type: none"> The plans must show two affordable housing units to comply with Policy DP2. Policy DP2(d) and associated Guidance Notes state that “the type of affordable housing to be provided will be determined by the Housing and Property Service”. The applicant should refer to the Strategic Housing Investment Plan (Section 3, Size and type of new affordable housing) available at http://www.moray.gov.uk/downloads/file115848.pdf. The applicant should be advised to contact Housing and Property for guidance in this regard prior to revision of their proposals. | | Agreed with the Housing Strategy and Development Manager |
| Open Spaces and Landscaping | | <ul style="list-style-type: none"> The area where the SUDs pond is located must be redesigned to provide a functional area of open space for residents to use. It must become the focal point for the character area and contain seating, planting, bio retention features, and public art. Semi mature street trees in accordance with the Council’s PPG must be provided along the | | Additional landscaping has now been proposed within the SUDS area to ensure biodiversity and enhanced amenity. |

| | | | | |
|--------------|--|--|--|---|
| | | street. | | |
| Biodiversity | | <ul style="list-style-type: none"> • A biodiversity plan must be provided showing how the layout promotes biodiversity. | | Additional landscaping plan submitted showing this achieved. |
| Car Parking | | <ul style="list-style-type: none"> • Revise layout so that 50% of parking is located to the side or behind the building line on the main primary street. • Transportation have advised that the integral garages do not meet the Council's minimum internal dimension requirements and therefore they do not count towards the parking requirements of any plot. There is a shortfall in parking on plots 409, 410, 413, 416, 419, 420, 424, 426, 427, 435, 436 and 445 when taking account of the driveway and garage dimensions. • No details for the provision of EV chargers or EV infrastructure have been provided to satisfy the policy requirements. • The proposed cycle storage facilities are poorly located and lack natural surveillance. The details submitted are inconsistent with the plans showing wedge type lockers laid out with alternate sided openings but the standard details provided show rectangular lockers with no dimension details. | | <p>A small number of spurs within the layout have not been able to achieve the 50% rear parking. This is in part due to working with a defined roads layout on 3 sides of the CF4 site, where a previously approved roads layout has influenced the layout currently proposed. That layout is however considered acceptable on balance.</p> <p>See below explanation.</p> |

| | | | | |
|-------------------------|--|--|--|---|
| Street Structure | | Whilst the proposed application layout could in isolation be made acceptable subject to the changes noted by Transportation, it is one of several applications which have been made for changes within South Glassgreen which includes changes to paths and road layouts. In order to ensure the various applications result in a consistent and coherent network of roads and paths all the proposed changes should be considered under a single application for the roads and paths. This has not been done which could result in issues with the South Glassgreen layout as a whole. | | Plans have been amended not show connectivity to surrounding connected areas, and where necessary conditions comparable to those from the wider Elgin South planning consents have been recommended to ensure cohesiveness of development. Eg. Conditions about the A941 junction. |
| Street Layout | | | | Layout remains acceptable following amendments under other categories. |
| Street Detail | | | | Utilities plan now provided along with finalised detailed landscaping on streets |

Following submission of amended plans the only remaining area of red relates to parking provision. The other place-making categories have been satisfied following minor amendments to plans, layout and the addition of a further affordable house within the site.

The amended parking layout shows that on all streets apart from one (plots 435-441 & 411-414) the quantitative element of the policy has been met with 50% of parking on all streets being located to the rear or behind the building.

Whilst the majority of parking is within the front curtilage on the street (plots 435-441 & 411-414), this is concentrated in a northern spur which will only be accessed by these 3 properties (plots 435-437). The spur forms part of the streetscape however, on the parking plan trees are strategically placed in the front curtilage of plots 436 & 437 which together with hedging is considered to screen and break up the visual dominance of parked cars in the streetscape. Given this site is considered to be an infill development, and for the aforementioned reasons, the parking mitigation is considered to be acceptable in this instance. As set out above, a condition will be required on any consent to ensure these semi-mature trees are provided given the discrepancy between the landscape and parking plans.

Detailed landscaping plans submitted alongside the proposed maintenance schedule ensure that an acceptable degree of landscaping is achieved on site. Open space requirements are achieved in part for the requirement to keep free from development a corridor host to a high pressure gas main for which residences must be set back. The substantive landscaping along the southern edge of the site, will provide a green corridor between the proposed site, and any future development to the south.

In terms of the proposed layout, character areas and proposed design of dwellings, amendments were received following the QA process which ensure the 3 proposed

character areas are host to pallet of building finishes unique to each, while the composition of houses, with the mix of different cedar cladding colours being the determining factor difference between house types. It is noted that the properties on the west, north and east side of the site front onto already consented street, so attempting a character distinction between the 53 houses subject of this application may be less of a necessity, where many of the plots will identify with the approved housing on the streets which they would occupy. The character areas covering the one central road running through the site attempt to create a distinct areas within the middle of the site.

The proposed development does comprise an acceptable layout, with appropriate open space, landscaping and is within an adequate distance from playparks to the north. The proposal therefore complies with the placemaking requirements of policy PP1 Placemaking.

Access and Parking (PP1 and DP1)

The Transport Assessment (TA) submitted in support of the application includes references to a proposed Site Access from the A941, the details of which are not the subject of the current application and the principles of which have not been agreed with Transportation officers. For the avoidance of doubt, any references to works associated with the A941 i.e. including the A941 site access, proposed speed limit changes, pedestrian and cycle paths and crossings and bus stop provision have not been considered for this application and the works or the principles are not accepted by Transportation. These will require consideration and approval and it is noted that planning application for the wider development of this area, such as 16/01244/APP and 18/01209/APP have conditions looking to final details of the A941 junction also. These conditions are reiterated as this site would also take access from the A941.

Policy DP1(ii)(b) and PP1 vi) require 50% of the parking on each street to be behind the building line of each unit and while this has been achieved on most streets, but please not the comments above under place-making in relation to where this could not be achieved. The existing approved street layout surrounding the site, has partially pre-determined the road layout currently proposed and as a result some small portions of the site have been unable to meet this requirement. Various amendments were made to improve placemaking and landscaping requirements, such that this shortfall of side and rear parking affecting a small number of plots does not detract from the overall acceptable layout of the proposed development.

Accounting for the constraints to the roads arising from the site infilling what had originally been laid out as a school premises, the alternative residential layout does meet the aims of policy DP1 Development Principles and PP1 Placemaking.

Drainage, Water Supply and Flood risk (PP3, DP1 and EP12)

Policies PP3 Instructure and Services and DP1 Development Principles (iii) Water Environment, Pollution, Contamination require development to be planned and co-ordinated with infrastructure to ensure places function properly, and proposals are adequately served by infrastructure and services in terms of foul and surface water drainage and water supply. Policy EP12 Management and Enhancement of the Water Environment requires surface water from development to be dealt with in a sustainable manner (SuDS) that has a neutral effect on the risk of flooding or which reduces the risk of flooding, including temporary/construction phase SuDS.

Subject to the clarification sought in the condition recommended, the submitted Drainage assessment and proposed Suds basin and drainage infrastructure will comply with the above policies.

Natural Environment (EP1, PP1 and DP1)

The site is not subject to any international, national or local environmental designations and has already been subject to some intervention from the adjoining construction works. Site visits confirm that the land is of low ecological importance and the applicant submitted Extended Phase 1 Habitat Survey and Biodiversity Actions carried out in May 2021 does not highlight any specific features, but does list appropriate mitigation and best practice when undertaking development. The mitigation measures proposed in the document are recommended as condition to ensure they are adhered to. These measures include pollution prevention, good site maintenance, vigilance for protected species on site and avoidance of ground works during ground bird nesting season. The applicant also submitted a South Glassgreen Wildlife Enhancement and Mitigation Document November 2021 which covers much of the same mitigation measures and also seeks to enhance the natural habitat through instillation of bird and bat boxes, insect friendly grass mixes, hedgehog pathways beneath fences, and other measures.

This will ensure compliance with the above policies where they relate to the protection of the natural environment.

Affordable housing (Policy DP2 (d))

Policy DP2 Housing requires new housing developments to provide 25% of the total units as affordable housing in affordable tenures to be agreed by the Housing Strategy and Development Manager. As this development is effectively new housing provision, beyond the numbers previously approved in Elgin South, this requirement for affordable housing must be met.

Two affordable units have now been provided within this application which includes a 2 bed and 4 bed detached bungalows. The remaining requirement for affordable housing is being met by the separate planning application for 15 affordable housing units (see 21/00304/APP in the history section above). Whilst unusual to provide affordable provision across two separate concurrent planning applications, the overall 25% is still being met, and complies with policy.

The proposal is now deemed to fully comply with PP1 and DP2.

Accessible Housing (DP2)

In terms of accessible housing, 6 accessible housing units are to be provided across the site. These properties are shown and detailed in the submitted Accessible Housing Statement which identifies the 6 ground floor flats designed to meet accessible housing standards.

The proposal is now deemed to fully comply with PP1 and DP2 f) where the 10% requirements of accessible housing from the private stock proposed is required.

Pollution Control (DP1, EP14 and R1)

Policies DP1 Development Principles and Policy EP14 Pollution, Contamination and Hazards seek to ensure that new developments do not create pollution which may adversely affect the environment or local amenity.

Conditions recommended seek a Construction Environmental Management Plan and limit hours of construction to ensure mitigation of impacts of construction activity on the surrounding properties. It is noted is acknowledged that residents may have anticipated this locality would be host to a primary school and it playground, but that does not preclude its use for alternative purposes if all other material considerations allow.

Developer Obligations (PP3)

The development has been the subject of a developer obligations assessment in accordance with policy PP3 Infrastructure and Services and supplementary planning guidance which has identified the need for contributions towards healthcare facilities. The applicants have agreed to the level of developer obligations which will require to be secured via a S.75 legal agreement prior to the issue of the planning consent.

Conclusion

Subject to the conditions recommended the development would constitute an acceptable departure from the originally designated use and comfort can be taken from the identification of a larger more appropriate site to the south. The proposed alternative housing use and layout would provide an appropriate use of this land subject to the developer obligations sought and conditions proposed.

REASON(S) FOR DECISION

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

The proposal accords with all relevant policies of the Moray Local Development Plan 2020 other than Elgin Settlement designation community facility designation CF4 for a primary school site. There now being an alternative more appropriate school site identified within the Final Draft Updated Elgin South Masterplan, the current CF4 site may be released for housing as an appropriate alternative use as the Council is satisfied with the suitability of the proposed new primary school site and is being included within the revised Elgin South Masterplan to be adopted.

**Author/Contact
Officer:**

Neal MacPherson
Principal Planning Officer

Ext: 01343 563266

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

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
- (i) **Character and Identity**
- Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) **Healthier, Safer Environments**

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

(iii) **Housing Mix**

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

(iv) **Open Spaces/Landscaping**

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

v) **Biodiversity**

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

(vi) **Parking**

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

- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

(d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.

(e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP3 INFRASTRUCTURE & SERVICES

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

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

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

DP2 HOUSING

- a)** Proposals for development on all designated and windfall housing sites must include a design statement and shall include 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 as may be required by the planning authority, unless these requirements are not specified in the site designation or are considered not to be required.

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 Strategic

Planning and Development 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 40.

e) Housing Mix and Tenure Integration

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 incorporating affordable housing will be required to provide 10% of the private sector units to wheelchair accessible standard. 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 41.

POLICY GUIDANCE NOTE- AFFORDABLE AND ACCESSIBLE HOUSING

Affordable Housing

Providing affordable housing is a key priority for Moray Council and this is reflected in the Local Outcomes Improvement Plan (LOIP) and the Local Housing Strategy (LHS). The Council's Housing Need and Demand Assessment 2017 highlights the significant requirement for affordable housing in Moray, which is a national issue, resulting from a number of factors including affordability issues, downturn in the economy and the shortage of public and private sector rented houses.

Planning policies assist with the provision of affordable housing, which is defined in Scottish Planning Policy (SPP) as;

"Housing of a reasonable quality that is affordable to people on modest incomes. Affordable housing may be provided in the form of social rented accommodation, mid- market rented accommodation, shared ownership housing, shared equity housing, housing sold at a discount (including plots for self-build and low cost housing without subsidy." This local development plan regards lower quartile earnings as "modest incomes".

The 2017 HNDA identified a requirement for 56% of all need and demand to be affordable units in Moray between 2017 and 2035. This Local Development Plan has lowered the threshold so that individual house proposals are required to make a contribution towards affordable housing provision, which is intended to ensure proposals do not circumnavigate the policy and provide a fair and transparent process.

A number of variables influence affordability of housing, including mortgage deposit requirements, mortgage interest rates, lower quartile house prices, lower quartile private rents, lower quartile full time gross earnings. Changes in these variables will affect the affordability of housing in Moray. The maximum affordable rent and maximum affordable house purchase prices is published on the Council's website at

http://www.moray.gov.uk/moray_standard/page_90100.html. The current Local Housing Allowance will be used as a proxy for average private sector rents.

Affordable housing should be provided on site and as part of a mixed development of private and affordable units. To meet the need for affordable housing there may be proposals for 100% provision of affordable housing and these will be acceptable as part of a wider mixed community, provided all other Local Development Plan policies are met.

The policy requires single house proposals to make a commuted sum payment as a developer obligation towards affordable housing, with the cost figure published annually on the Council website at http://www.moray.gov.uk/moray_standard/page_94665.html and determined by the District Valuer's assessment of the value of serviced land for affordable housing in Moray. This allows developers to be clear at the outset of a project about the potential cost of commuted payments and should be reflected in land values.

The type of affordable housing to be provided will be determined by the Housing and Property service. Developers should contact Housing and Property as early as possible. Housing and Property will decide whether a commuted payment or affordable units will be required on a site by site basis. Housing and Property will provide developers with an affordable housing mix, detailing the size and type of housing required based on HNDA/LHS requirements.

The Council will consider the following categories of affordable housing within the context of the needs identified in the HNDA/ LHS;

- Social rented accommodation - housing provided by an affordable rent managed by a Registered Social Landlord such as a housing association or another body regulated by the Scottish Housing Regulator, including Moray Council.
- Mid-market rent accommodation - housing with rents set at a level higher than purely social rent, but lower than market rent levels and affordable by households in housing need. Mid-market rent housing can be provided by the private and social housing sectors.
- Shared equity housing- sales to low income households, administered through a Scottish Government scheme e.g. Low-cost initiative for First Time Buyers (LIFT).

Any proposals to provide affordable housing in a form other than those listed above, must demonstrate that the cost to the householder is "affordable" in the Moray context and that the property will remain "affordable" in perpetuity.

Affordable housing requirement figures will be rounded up.

The Strategic Housing Investment Plan (SHIP) is produced annually by the Council and identifies details of the proposed delivery of affordable housing.

Accessible housing

Scottish Planning Policy states (para 28) that "the aim is to achieve the right development in the right place; it is not to allow development at any cost" and "that policies and decisions should be.....supporting delivery of accessible housing."

Policy DP2 aims to;

- Assist the Council, the NHS and the Health and Social Care Moray to meet the challenges presented by our ageing population and the shared aim of helping people to live well at home or in a homely setting. The HNDA 2017 demonstrates that Moray's population is ageing and there is a trend towards older and smaller households.
- Provide increased choice of tenure to people with physical disabilities or mobility impairments, by increasing the supply of accessible housing in the private sector. There is currently a mismatch between the size and type of housing required and the size and type of housing available across all tenures. This mismatch, along with increasing housing needs associated with physical disability, are the likely drivers of owner occupiers seeking public sector accessible housing to meet medical needs.

Accessible/ adapted housing can promote independence and wellbeing for older or disabled people, can facilitate self-care, informal care and unpaid care, potentially prevent falls and hospital admissions and can delay entry into residential care.

Policy DP2 requires that housing proposals of 10 or more units incorporating affordable housing must provide 10% of the private sector units to wheelchair accessible standard where all the rooms are accessible to a wheelchair user.

This applies to new build and conversion/ redevelopment projects. Flexibility may apply where there is extremely challenging topography or where the site is in a remote location. For the purposes of Policy DP2, "remote" locations are defined as being rural areas outside settlement and Rural Grouping boundaries as defined in the Local Development Plan.

Accessible units should be in a location which provides convenient access, in terms of distance, gradient and available public transport, to reach the facilities needed for independent living. Small, low maintenance gardens are generally regarded as a positive feature by this customer group.

New wheelchair accessible housing in any tenure must comply with Housing for Varying Needs Standards (HfVNs), including the standards specific to dwellings for wheelchair users. HfVNs is available at [http://webarchive.nationalarchives.gov.uk/20131205115152uo /http://www.archive2.official-documents.co.uk/document/deps/cs/HousingOutput/start.htm](http://webarchive.nationalarchives.gov.uk/20131205115152uo/http://www.archive2.official-documents.co.uk/document/deps/cs/HousingOutput/start.htm)

The specific design specification required to meet the terms of this policy are;

External requirements

- Location(s) convenient for amenities and facilities e.g. public transport, local shops etc
- Car parking space as close as possible to the entrance door and at a maximum distance of 15m (HfVNs para 7.13.4 refers).
- Step free paths within curtilage, ramp gradients preferably of 1:20 but no steeper than 1:12 (HfVNs para 7.7.1 refers)

Internal requirements

- Hallways- minimum 1200mm wide (HfVNs para 10.2.3 refers)
- Door frames- minimum 926mm wide door leaf, giving a clear width of 870mm (HfVNs para 10.5.7 refers)
- Bathrooms/ wet rooms- 1500mm wheelchair turning circle required (HfVNs para 14.9.2 refers)

Accessible housing requirement figures will be rounded down.

All proposals for new build or converted housing should set out details of how they will comply with this policy in their planning application.

EP2 BIODIVERSITY

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

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

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

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

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

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 designations in rural groupings to anything other than 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.
- 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.

The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised. 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.

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

All new development proposals will be assessed and must achieve a very good quality score of no less than 75%. Quality will be assessed by planning officers at the planning application stage 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 behaviour.
- 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.

EP6 SETTLEMENT BOUNDARIES

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

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

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

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

c) Control of Woodland Removal

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

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional

public benefits (excluding housing) and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

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

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

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).

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

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

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

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

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

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

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

Landscape Scheme

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

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

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

EP8 HISTORIC ENVIRONMENT

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

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

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

b) Local Designations

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

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

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

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction must be

used where appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable.

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

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

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

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

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

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

c) Water Environment

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

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a

presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

R20 Glassgreen, Elgin South 18 ha 195 units

- Proposals must comply with the Elgin South Masterplan Supplementary Guidance. The Masterplan layout is shown on page 171.
- Site R20 includes South Glassgreen and Crescent (North) neighbourhoods within the Elgin South Masterplan.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- Open space and play areas must be provided in compliance with the masterplan.

CF4 Glassgreen Primary School

Suitable Uses

- 2.5ha site safeguarded for new Primary School.

LONG2 Elgin South

- Proposals must comply with the Elgin South Masterplan Supplementary Guidance. The Masterplan layout is shown on page 171.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- A Transport Assessment is required, the scope of which must be agreed with Transport Scotland and the Moray Council Transportation.
- Vehicular connection to the A96 (T) required via the Barmuckity Business Park.
- A Water Framework Directive waterbody specific objective will require to be addressed.