

**18/01497/APP**

**27th November 2018**

**Revised residential development and associated  
infrastructure at R6 Banff Road North Banff Road Keith  
Moray  
for Springfield Properties PLC**

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**Comments:**

- A SITE VISIT has been carried out.
- Application is major development as defined under the Hierarchy Regulations 2009 for a housing development with more than 50 houses, and the site area exceeds 2ha.
- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- One representation received.

**Procedure:**

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

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

**Conditions/Reasons**

1. Prior to any works commencing on site, evidence shall be submitted and approved by the Council, as Planning Authority which confirms that a Construction Traffic Management Plan (CTMP) has been submitted and agreed with the Moray Council Transportation Section. Thereafter, construction works shall be completed in accordance with the approved Construction Traffic Management Plan unless otherwise approved in writing by the Planning Authority in consultation with the Transportation Section.

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

2. Prior to any works commencing on site, details (plan at minimum scale 1:500) shall be submitted to and approved by the Council as Planning Authority, in consultation with Transportation Section showing a continuous 3m wide cyclepath along the site frontage onto the A95 and extending west of the site boundary to a point approximately 23m west of the Glenisla Home access onto the A95. These

details shall also include dropped kerb crossings with tactile paving at the Glenisla home access. Thereafter, construction of the frontage path shall be completed in accordance with the approved details prior to commencement of the 5th unit of housing unless otherwise agreed in writing with the Planning Authority in consultation with the Transportation Section.

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

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

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

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

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

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

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

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

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

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

and management of all affordable housing provided on the site in perpetuity. Thereafter the development shall be implemented in accordance with the approved details.

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

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

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

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

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

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

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

The works to the north ditch shall include:

- Clearance of debris/vegetation within the north ditch to ensure provision of the cross section is as indicated in the Existing Ditch Capacity Check

(I/190400) document, prepared by Cameron & Ross, for a length of 20 metres upstream (west) of the discharge headwall and downstream (east) of the discharge headwall to the cemetery access footpath culvert.

- Jetting of the cemetery access footpath culvert to ensure full capacity is available.

The works to the south ditch shall include:

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

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

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

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

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

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

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

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

13. No development shall commence until the results of a pre-construction badger survey undertaken by a suitably qualified person (as recommended in the accompanying Badger Survey by Rachel Finan Ecology), have been submitted to

and approved by the Council, as Planning Authority, in consultation with Scottish Natural Heritage. In the event that badgers are discovered on or near the site, no works shall take place in that area until appropriate mitigation measures have been agreed in consultation with Scottish Natural Heritage. Thereafter all works shall be carried out in accordance with these details.

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

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

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

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

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

The development represents an acceptable departure from the Keith R6 designation in that, the proposed layout does not allow for the full extent of structural planting within the northern half of the site, as required by the designation. However, as the proposed layout broadly reflects that of the extant planning consent LPA reference 17/00009/APP and retains comprehensive structural landscaping across the site which would assist with its integration into the landscape, the departure is acceptable in these circumstances. In all other respects the proposal accords with the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

### **List of Informatives:**

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

Any construction activity beneath the overhead powerlines should be carried out in accordance with the safety guidance issued by the electricity utility providers. This also applies to the planting details, species selection and maintenance arrangements of all landscaping close to the powerlines.

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

This development is subject to a Unilateral Obligation in regard to arrangements for payment of developer obligations to address the impact of the development upon healthcare, with the proposed contribution to be payable in instalments.

SCOTTISH NATURAL HERITAGE has commented that:-

The applicant is reminded that all wild birds, their nests and their eggs are protected by law under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and that it is their responsibility to develop the site in accordance with all wildlife legislation and that works should be timed carefully to avoid the times of year when wild birds are likely to be nesting, i.e. the breeding season.

SCOTTISH WATER has commented that:-

See attached consultation response dated 11th December 2018.

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Regulatory advice for the applicant: We understand that the development of this site will involve a construction site of more than 4 hectares with fairly steep gradients and therefore a Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from the construction site, including access tracks. See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

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

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

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at:

28 Perimeter Road, Pinefield, Elgin IV30 6AF Tel: 01343 547663

SCOTTISH AND SOUTHERN ELECTRICITY NETWORKS has commented that:-

Please be aware there is a tower line in the vicinity and no building should be within 15 metres of the tower line. We have also attached a copy of SSEN's apparatus plan showing the approximate location of our plant. When working in the vicinity of underground cables please refer to HS (G) 47 and Health and Safety Guidance Note GS6 when working in the vicinity of overhead cables.

SCOTLAND GAS NETWORKS has commented that:

See attached consultation responses dated 13th December 2018 and 20th February 2019.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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, Road Safety Audit, 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 [constructionconsent@moray.gov.uk](mailto:constructionconsent@moray.gov.uk)

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road. Road Safety Audit requirements will be determined through the Roads Construction Consent process.

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.

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

The Road Safety Audit must be carried out in accordance with the requirements set out in the Design Manual for Roads and Bridges HD19/15. For the avoidance of doubt, there will be no planting within the public road (including verges) unless otherwise agreed in writing by the council as Planning Authority in consultation with the Roads Authority.

If street furniture will need to be repositioned or any existing roadside ditch requires a pipe or culvert, these will be at the expense of the developer. Advice on these matters can be obtained by e-mailing [road.maint@moray.gov.uk](mailto:road.maint@moray.gov.uk)

Street lighting will be required as part of the development proposal.

Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam.

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

The applicant shall ensure that their operations do not adversely affect any Public

Utilities, which should be contacted prior to commencement of operations.

The development proposes to discharge development roads drainage to a road drainage ditch to the north east of the site which has known capacity issues. Details for the design of drainage infrastructure to attenuate and discharge to this ditch will need to be agreed with Moray Council Consultancy and Flood Risk Management Teams.

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

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

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

The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals.

The developer must contact the Roads Authority Roads Maintenance Manager at Ashgrove Depot, Elgin - Tel (01343) 557300, [road.maint@moray.gov.uk](mailto:road.maint@moray.gov.uk), to discuss the proposals.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
01		Playpark equipment layout
		Playpark equipment details
KE03_LP_PL_01		Location plan
KE03_SL_PL-02		Topographical survey
SKPL-LL-01		1-500 levels layout
SKPL-RD-03		Roads adoption plan
SKPL-RD-04		Roads vehicle tracking
SKPL-SL-01		1-200 levels layout 1 of 4
SKPL-SL-02		1-200 levels layout 2 of 4



SKPL-SL-03	1-200 levels layout 3 of 4
SKPL-SL-04	1-200 levels layout 4 of 4
	A type - green
	A type detached - blue
	B type - blue
	B type - green
	C type detached - blue
	C type detached - green
	CS type detached - blue
	CS type detached - green
	CS type semi-detached - blue
	CS type semi-detached - green
	D type - blue
	D type - green
	F type semi-detached - blue
	F type semi-detached - green
	Y type - blue
	Y type - green
2016/D/PL/01	D type - elevations and floor plans
KE03_SL_PL_007	Material conditions
KE03-ENG-500	Roads layout
SFBR-DL-05	Main drainage basin 2 details
SFBR-DL-06	Mains drainage basin 2 details
SFBR-DL-07	Post development rainfall routing plan

SFBR-SM-01		SUDS management plan
SKPL-DL-01		Main drainage layout
SKPL-DL-02		Mains drainage sections sheet 1 of 2
SKPL-DL-03		Mains drainage sections sheet 2 of 2
MC/2018/FDET/OPP/01		F type detached- elevations and floor plans
MC/2018/C/OPP/01		C type detached - elevations and floor plans
MC/2018/CS001	B	CS type - elevations and floor plans
2016BB_901		Type B semi combination elevations and floor plans
KE03_SL_PL_001	B	Site layout
KE03_SL_PL_002	B	House type allocation
KE03_SL_PL_003	D	Landscaping layout
KE03_SL_PL_004	D	Phasing plan
KE03_SL_PL_005	B	Roads hierarchy
MC/2018/CS/01	B	CS type semi detached - elevations and floor plans
MC/2017/F/01		F type semi detached - elevations and floor plans
KE03/MC/2018/A/01		Cottage Flat A type - elevations and floor plans
KE03/MC/2018/Y/AS/01		Y type - elevations and floor plans
KE03-ENG-700		Visibility layout

Additional information to go with decision:

- Scottish Water consultation, dated 11th December 2018
- Scottish Southern Electricity Networks consultation, dated 16th April 2019 (including asset plan)
- Scotland Gas Networks consultations, dated 13th December 2018 and 20th February 2019 (including apparatus plan)
- SEPA consultations dated, 20th December 2018 and email dated 2nd May 2019
- Drainage Assessment
- Drainage Statement

- Ditch Assessment
- Badger Survey





## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**  
**18/01497/APP**

**Site Address:**  
**R6 Banff Road North**  
**Banff Road Keith**

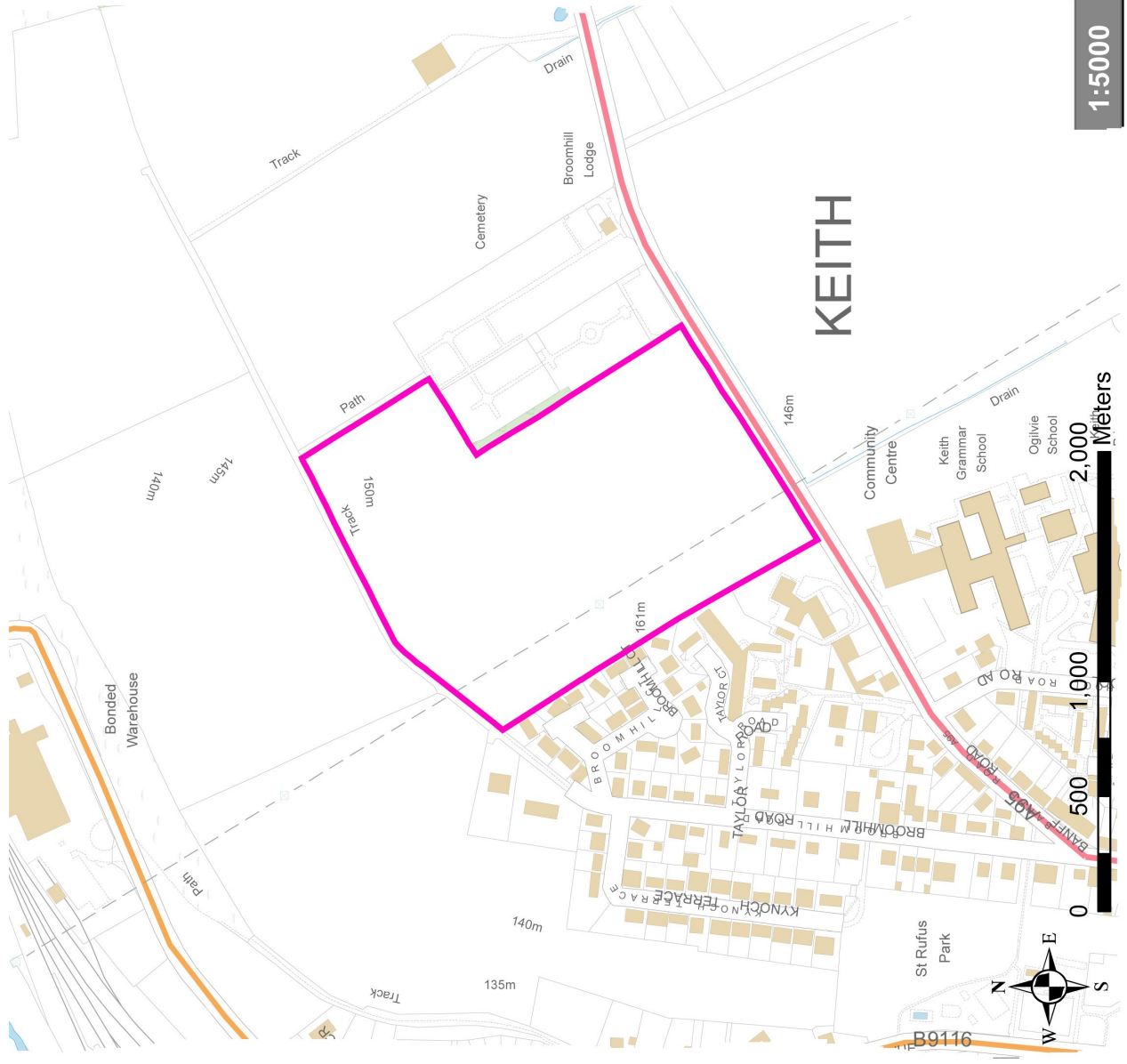
**Applicant Name:**  
**Springfield Properties PLC**

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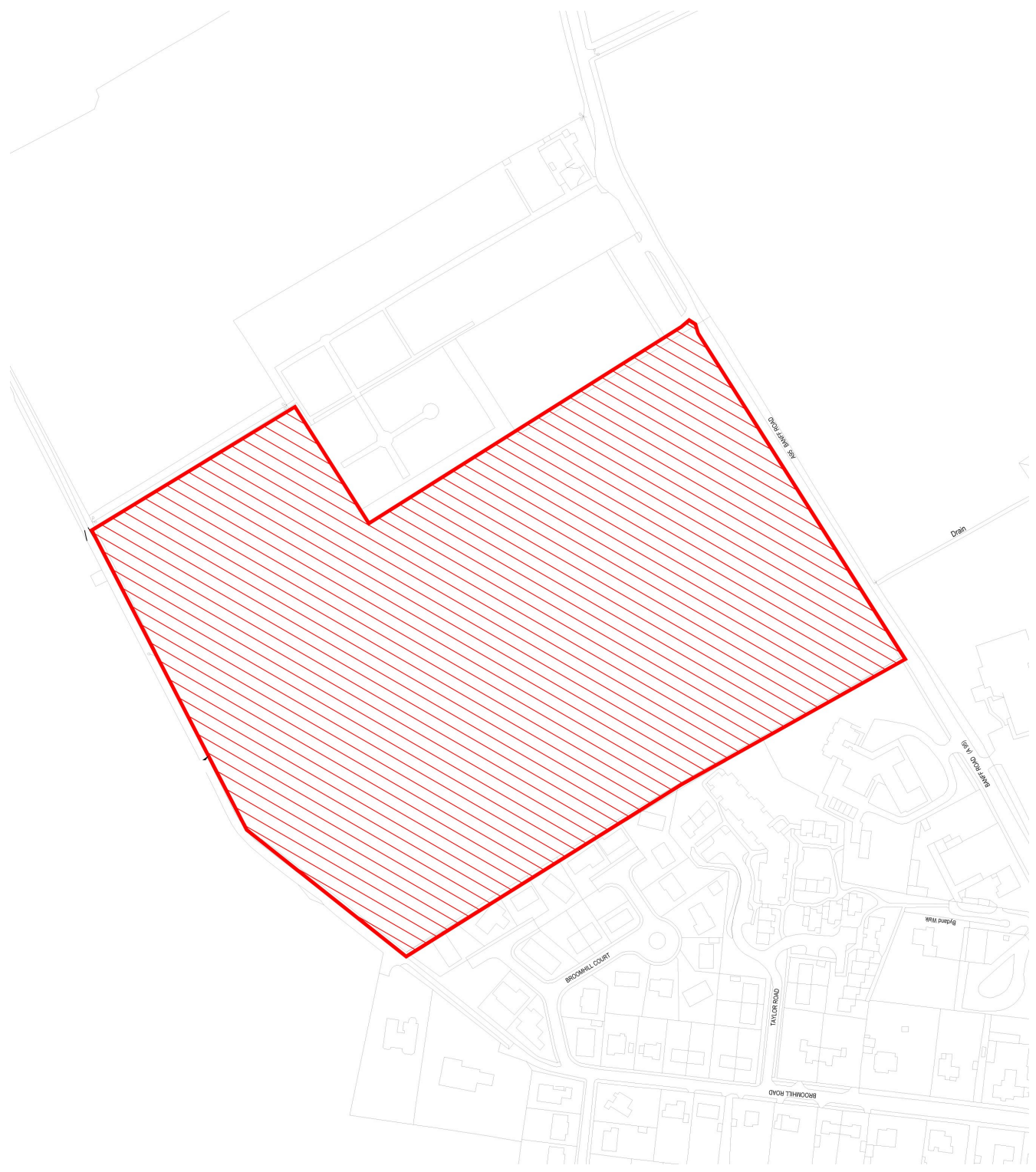
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## Location Plan



**Site Location**





**Site layout**

















## PLANNING APPLICATION: 18/01497/APP

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

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### **THE PROPOSAL**

- A detailed application for planning permission for a revised residential development of 122 affordable dwellings (82 houses/40 flats) and associated infrastructure on land at site R6 Banff Road North, Keith.
- The site currently has planning consent for 90 affordable dwellings (62 houses/ 28 flats) including land reserved for a future community use, under reference 17/00009/APP, dated 15 September 2017.
- The proposed layout comprises a single main roadway which sweeps up into the site with housing laid out along the road and within small cul-de-sacs/courtyards and a loop arrangement in the northern part of the site. The layout (as before) incorporates proposed substantial structural landscaping and woodland areas, an open space within the western area of the site, street planting, a network of footpath/cycle-ways linking into the wider network and an equipped play area. Associated works to address the topography and changing levels across the site include earthworks and construction of embankments and retaining walls. A stone feature wall is also proposed along the site frontage.
- The house types would be a mix of semi-detached and detached single and two storey designs (providing 2, 3, 4 or 5 bedrooms), with material finishes of wet dash render, painted timber cladding and grey roof tiles. The flats would be one bedroom units in blocks of 4, within two storey buildings of largely the same form and design as the two storey houses. They would each have parking, gardens, hedge boundary planting or low fences and 1.8m high timber fencing to the rear.
- The houses would connect to the public water supply and foul drainage network (the latter via a new foul pumping station at the southeast corner of the site). Surface water from the roofs of the buildings, roads, paths etc. would be disposed of via roadside filter drains/trenches, road drainage and two SUDs detention basins within the north and southern parts of the site, which would discharge to two adjacent watercourses/drainage ditches (controlled by hydrobrake flow control devices).
- The proposal would require diversion of an existing overhead power line and diversion of a gas pipeline.
- The site would be developed in 3 phases of 37, 38 and 47 units, with phase 1 covering the southern part of the site and entrance onto Banff Road, and phases 2 and 3 progressing northwards.
- The application is supported by a Planning, Sustainability and Design and Access Statement, Drainage Assessment/Statement, Transport Assessment and Badger Survey. These address various planning requirements and explain the rationale for the application and increase in units, which are required to address significant site constraints and high site costs (significant ground level changes, increased need for retaining walls and gas pipeline and overhead line diversion costs).

## **THE SITE**

- The site extends to approximately 8.57ha and is located within the north eastern boundary of the Keith settlement, as defined in the Moray Local Development Plan 2015. It forms the entire R6 Banff Road North housing designation and is currently unused land (previously agricultural).
- The site is bounded by housing to the west, the A95 Banff Road to the south and a cemetery and row of trees to the east. A field boundary and farm track bound the site to the north.
- The northern part of the site occupies a ridge running west to east, while the southern half of the site slopes downhill towards Banff Road to the south.
- An existing electricity power line with one pylon dominates the western side of the site and runs north to south parallel with the western boundary of the designation. Two smaller overhead power lines and a medium pressure gas pipeline also run through the site.

## **HISTORY**

### **For the Site:**

**10/01492/APP** – Detailed planning consent for 60 dwelling houses and planning permission in principle for area for future community facilities at R6, Banff Road, Keith – granted 19 September 2013 (following conclusion of legal agreement).

**16/00523/PAN** - Proposal of Application Notice (PAN) for amendment of previous planning permission ref 10/01492/APP to provide for revised proposals for residential development and associated infrastructure at R6, Banff Road, Keith. Following consideration, the Council's Planning & Regulatory Services Committee on 14 June 2016 Members confirmed they had no comments to make in relation to the PAN.

**17/00009/APP** – Detailed planning consent for 90 houses, associated infrastructure and a reserved area for future community uses at R6, Banff Road, Keith – granted 15 September 2017 (following conclusion of legal agreement).

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

Advertised as a departure from the development plan and advertised for neighbour notification purposes.

## **CONSULTATIONS**

**Planning & Development** – MLDP 2015 policy and urban design comments provided. Amendments sought and provided to ensure compliance with quality audit aims and with placemaking policy PP3 (see observations section).

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

regarding drainage infrastructure provision and clearance works to discharge outlets, in accordance with submitted drainage and ditch assessments.

**SEPA** - No objections and advisory comments provided; management of surface water run-off from the construction site will require to be licenced by SEPA therefore we do not require a condition to address these matters in terms of our interests.

**Scottish Natural Heritage** – Advice provided regarding protected species. Notes findings of previous badger survey and that these are still likely to be representative of presence or otherwise of badgers on site. As per the survey conclusions/recommendations, SNH also recommends the carrying out of pre-construction survey prior to development commencing and notes that this is to be covered by condition.

**Developer Obligations** – Developer Obligations assessment carried out in relation to current local development plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities. A new legal agreement will be required to secure these contributions.

**Environmental Protection, Lands and Parks Section** – Comments regarding initial site layout/plans; inappropriate location of proposed kick-about area adjacent to road; small size of pocket park; lack of detail of boundary treatment between the housing and cemetery; SUDs ponds affecting high water table at cemetery; lack of information regarding long term maintenance arrangements of open space/landscaped areas; and need for additional sowing of wildflower grass seed.

(Officer Note: The above comments/concerns have been addressed with submission of revised plans and information. The kick-about area and small size of pocket park have been replaced by a larger equipped play area and landscaped open space. An updated landscape scheme has been submitted which clarifies boundary treatment and plant species. SEPA has confirmed that it is satisfied that there will be no adverse groundwater issues as the SUDs detention basins will be impermeable, with discharge to the nearby ditches).

**Moray Access Manager** - No objections.

**Aberdeenshire Council Archaeology** - No objections.

**Scottish Water** - No objections. Advisory comments confirming sufficient capacity currently within water treatment works (water and foul), further investigations may be required once a formal application is submitted to Scottish Water.

**Environmental Health** - No objections.

**Contaminated Land** - No objections.

**Transportation Manager** - No objections subject to conditions regarding Construction Traffic Management Plan, provision of 3 metre wide cyclepath along the site frontage (and 23m beyond to the west), visibility splays, a setback distance for fencing from the edge of carriageway, parking and access provision.

**Transport Scotland** – Does not advise against the grant of permission.

**Housing Strategy and Development Manager** - No objections.

**Scottish and Southern Energy** - No objection; informative advice provided regarding the tower line and minimum required distance between this and any buildings

**Scottish Gas Networks** – No objection subject to condition requiring diversion of gas main through site prior to commencement of works in consultation with SGN.

## **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).

One letter of representation has been received from:-

Mr Alexander Grant - Cramond Broomhill Road Keith AB55 5GX

Neutral comment made neither objecting to nor supporting the planning application.

**Issue:** The road to the north of the proposed site is not a track owned by the Council but is private and maintained by contributor. Queries that access would not be granted without consultation with the owners of the track concerned.

**Comment (PO):** Maintenance of the access track is a private matter between the applicant and owners and does not preclude determination of the current application. The track forms part the Core Path Network which is already readily accessible to pedestrians and non-motorised vehicles.

## **OBSERVATIONS**

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

The application is a major development as defined under the Hierarchy Regulations 2009 as it is for a housing development with more than 50 houses, and the site area exceeds 2 hectares and is therefore subject to Pre-application Consultation report (PAC) procedures. For this application, the PAC report outlines the extent of the applicant's engagement with the local community in accordance with the Proposal of Application Notice (PAN) (16/00523/PAN). Whilst this is the second application to follow this PAC process, it covers the same area and is sufficiently linked to the proposals consulted upon at the pre-application stage and does require repeat PAC. There is also no statutory maximum length of time between carrying out PAC and submitting the related planning application.

As confirmed in the PAC, 28 members of the public attended a consultation exhibition and that the overall tone of feedback at the time was positive. Issues highlighted included



potential impact on private views, the path to the north of the site should be tarred and concerns that all of the housing being affordable. The PAC considers that these issues have been addressed and can be progressed as part of the application. It notes that due to the presence of the electricity pylons there will be an open space buffer of over 60m between existing and proposed houses and as such views will not be affected unreasonably. With regard to the farm track, it is outwith the site boundaries nor under the applicants control and does not form part of the current planning application. In terms of all of the units being affordable, the delivery of affordable homes is a requirement of Local Development Plan policy reflecting the overall priorities of the Council and National Planning Policy. The Pre-application Consultation (16/00523/PAN) was presented to members on 14 June 2016 at the Council's Planning and Regulatory Services Committee, where no issues were raised on the proposals.

### **Banff Road North (MLDP Policies H1, IMP1, Keith R6, PP1 and PP3) and departure issues**

The proposals are supported by PP1 Sustainable Economic Growth as they will bring further investment to the Keith area through construction and provision of new affordable homes.

The R6 designation text states that, as indicated on the settlement map, a significant part of the site should be given over to structural landscaping/tree planting, in order to restrict the amount of development on the upper slopes and crest of the hill, and help with the integration of new development into the landscape. Feature tree planting along the eastern boundary should also be provided. These requirements led to an indicative capacity to 60 houses on what is otherwise a relatively large site.

In terms of the capacity of the site being restricted to 60 units, policy H1 and the designation text states that the designation capacities are indicative only and proposed capacities will be considered against the characteristics of the site and conformity with policies PP3, H8 and IMP1. With this in mind the application is not considered to be a departure in this regard, and this is demonstrated by the current proposed layout which will still provide a generous amount of open space, landscaping and acceptable affordable housing with reasonably sized gardens or communal space.

With regard to the designation requirement to provide structural planting within the northern half of the site, the proposal departs from this aspect of Local Development Plan policy as it includes housing within this part of the site. However, the overall layout is broadly similar to the previous consented 'live' development and retains comprehensive structural landscape proposals including two woodland areas, feature planting to the east and west, and stepped planting between each housing group, which together would assist with its integration into the landscape. On this basis the proposal is considered an acceptable departure to the requirement of the designation.

Other designation requirements relate to access details, planting and a cycleway along the A95 frontage and requirement for a badger survey. The access and A95 frontage requirements have been met. The results of a badger survey submitted with the previous application which found no signs of badger activity or setts are still considered to be representative at this time; as recommended within the report and by SNH a pre-construction survey would be required to ensure that protected species are absent for the onset of construction.

From the above considerations the application is considered to represent an acceptable departure from the structure planting requirements of the R6 Banff Road North designation.

**Place-making: Design and Site Layout (PP3, PP2, R6, E5, H8, H9 and IMP1)**

During consideration of the application, discussions with the applicant have sought to promote an acceptable form of development in terms of good design and place-making principles as advocated by policy PP3 and the related Supplementary Planning Guidance (SPG). As a material consideration, a Quality Audit (QA) process, covering both design and site layout issues, has been agreed to assess the conformity of residential development with Policy PP3 place-making and Urban Design SPG principles.

The QA undertaken for this application identified a number of issues requiring attention and these have been addressed through submission of revised plans and additional information to ensure compliance with policy. These included removal of plots 75 & 76 to enhance the quality of the open space adjacent to the play area and to allow for additional tree planting; improvements to the area of open space which remains overlooked with containment being provided by hedging; provision of further detail for the play equipment; increased planting across the site particularly on the upper slopes which is required to provide integration into the hillside; a detailed landscape plan showing what type of species will be planted and where, including feature tree planting; an improved frontage and entranceway into the site with a stone wall and tree planting along Banff Road; and additional connection being provided from behind plots 121/122 to Banff Road which forms a natural desire line.

The application also includes the necessary Sustainability Statement which sets out how the objectives of policy PP2 Climate Change have been addressed within the development, in terms of its sustainable location, creation of quality of open spaces, utilising sustainable construction techniques and materials and encouraging energy efficiency through orientation (passive solar gain) and design of buildings, utilising low/zero carbon generating technology (Air Source Heat Pumps) etc.

The proposed development of well-connected internal streets and footpaths/cycle-ways, with strong pedestrian links within and outwith the site would provide good accessibility and permeability. The proposed houses and flats fronting onto the streets and open spaces, together with associated gardens and parking (predominantly to the sides) would represent an appropriate form of development. The range of style and finishes of houses and flats are suitably varied and comparable in style to other properties recently constructed within Keith. Low hedge planting and landscaped amenity areas would provide a welcoming development and substantive areas of planting along the northern and western edge of the houses would provide containment. The proposed playpark positioned centrally within the site would benefit from passive surveillance from the adjacent properties and be overlooked from the access road running through the site. A condition covering the provision of the landscaping and equipped play area, and long-term maintenance arrangements is recommended as detailed in the submitted plans.

Sufficient separation distances of approximately 70 to 85 metres between the proposed houses and existing housing to the west would also maintain acceptable amenity levels (i.e. privacy and light) for existing residents.

Based upon the above, the proposals would comply with the requirements of the R6 designation and policies PP3, PP2, E5, H8, H9 and IMP1.

### **Affordable/Accessible Housing (H8 and H9)**

All of the house and flats proposed are to be affordable housing and following consultation with the Housing Strategy & Development Manager, the proposed housing mix is considered to meet the needs of the area. A condition shall be attached covering the delivery and management of the affordable housing to ensure compliance with policy H8. As the scheme comprises entirely affordable housing the requirements of policy H9 accessible housing are not applicable.

### **Transportation (Keith R6, T1, T2, T5, T7, PP3, IMP1, IMP2 and IMP3)**

The proposed housing layout with associated roads, footpath/cycleway and drainage infrastructure providing good connectivity and a defined street hierarchy has been assessed by the Transportation Section and is considered acceptable, subject to conditions and informatives regarding construction traffic, visibility splays, parking and access provision. With compliance with these conditions the proposals accord with the abovementioned transport related policies.

Designation requirements in relation to various transport matters have also been addressed. These include consideration of road access in association with the site R7 Banff Road South immediately to the south to comprise an initial priority T junction or ghost island, and safeguarding of land for a roundabout to serve both sites. The current layout includes sufficient space at the front of the site to accommodate a future roundabout, and this is supported by additional information demonstrating scope for this infrastructure and provision of a footpath/cycleway along the A95 site frontage. In terms of the potential requirement for a contribution, based on information submitted in the Transport Statement, and following consultation with the Transportation Section and Transport Scotland, there is no requirement for improvements in conjunction with this development. The designation requirement to reposition the 30mph signs to the east of the site is not considered appropriate or required as the proposed site layout and frontage onto the A95 would not support a self-enforcing 30mph limit at this time.

### **Drainage and Water Supply (EP5, EP10 and IMP1)**

In order to meet the requirements of policies EP5 and IMP1 proposed surface water drainage arrangements would involve provision of two large SUDs detention basins and drainage within the proposed roadways/roadsides, which would discharge to two adjacent watercourses/ditches (controlled by hydrobrake flow control devices). The outfall from these basins will have an attenuated outflow to below the pre-development runoff rate before discharging to the drainage ditches. These arrangements supported by Drainage Assessment(s), calculations and additional information have been assessed by the Moray Flood Risk Management Section and been confirmed as acceptable, subject to conditions as recommended requiring adherence to the submitted drainage details and assessments.

Following consultation SEPA has raised no objection to the proposal on flood risk grounds or in terms of potential impact on groundwater (for the latter, noting that the soil ground conditions on the site are mainly impermeable clay and the SUDs basins will be impermeable, as confirmed by the applicant). As a precautionary measure, in order to ensure that the southern detention basin will not impact upon the water table of the adjacent cemetery, a condition is recommended requiring the basin to be lined to ensure that it is impermeable in design (in accordance with details to be approved), unless otherwise agreed. This has been agreed with the applicant.

SEPA has further confirmed that due to the size of the development exceeding 4 hectares, management of surface water run-off from the construction site will require a licence to address this issue.

The houses would also connect to the public water supply and foul drainage network, in line with policy EP10. Scottish Water has raised no objection in this regard and has provided advisory comments regarding detailed connection arrangements.

Accordingly the proposals comply with policies EP5, EP10 and IMP1.

### **Impact upon Cultural Heritage (BE1 and IMP1)**

There are no built heritage assets near the site, but given the presence of archaeology in close proximity to the site, consultation was carried out with the Aberdeenshire Archaeological Service who has raised no objection to the development.

### **Impact on Natural Heritage (E1, E3, IMP1 and R6)**

The site itself is not subject to any international, national or local environmental designations, although there are natural heritage interests present within the wider area, in this case the Mill Wood SSSI located approximately 1.8km to the east.

The R6 designation text identifies the requirement for a badger survey in support of any application. The results of the survey submitted with the previous application (re-submitted for this application) found no signs of badger activity or setts and concluded that the site had low potential to support badgers. Land-use on the site has remained unchanged since the survey and following consultation with SNH (and recent walkover survey by officers), the findings are considered to still be representative at this time; as a precautionary measure and recommended within the report a pre-construction survey would be required to ensure that protected species are absent prior to construction. This shall be covered by a planning condition.

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

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

### **Conclusion**

Subject to the conditions as recommended the proposal is acceptable and will make a substantial contribution towards the provision of affordable housing in Moray. Approval is recommended.

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

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

The development represents an acceptable departure from the Keith R6 designation in that, the proposed layout does not allow for the full extent of structural planting within the northern half of the site, as required by the designation. However, as the proposed layout broadly reflects that of the extant planning consent LPA reference 17/00009/APP and retains comprehensive structural landscaping across the site which would assist with its integration into the landscape, the departure is acceptable in these circumstances. In all

other respects the proposal accords with the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

**Author/Contact**

Richard Smith

**Ext:** 01343 563256

**Officer:**

Principal Planning Officer



**Beverly Smith**

**Development Management & Building Standards Manager**



## **APPENDIX**

### **POLICY**

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

##### **Primary Policy PP1: Sustainable Economic Growth**

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

##### **Primary Policy PP2: Climate Change**

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

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

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

##### **Primary Policy PP3: Placemaking**

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

Developments should;

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

## **Policy H1: Housing Land**

### **Designated sites**

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

### **Windfall sites within settlements**

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

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use



d) The requirements of policies PP2, PP3 and IMP1 are met.

### **Housing Density**

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

### **R6: Banff Road North**

The presence of overhead cables restricts the developable area, and are not a particularly attractive neighbour for residential properties. The site does however offer potential for development between the current edge of the built up area and the cemetery. The cables on wooden poles should be undergrounded but this may not be economically feasible for the pylons, and any layout will have to take safeguarding requirements into account. As indicated on the settlement map, a significant part of the site should be given over to structural landscaping/tree planting, in order to restrict the amount of development on the upper slopes and crest of the hill, and help with the integration of new development into the landscape. Feature tree planting along the eastern boundary should also be provided. These requirements will restrict capacity to 60 houses.

Road access must be considered in association with site R7 immediately to the south. An initial junction may comprise a priority T or ghost island, however land must be safeguarded for a roundabout to serve both sites. Re-positioning of the 30mph signs will be required, to be promoted by the developer. A contribution towards improvements at the Banff Road/A96 road junction may be required.

Along the A95 frontage, hedging and feature tree planting should be provided, to create an attractive road verge incorporating footpath/cycleway.

It will be necessary for the developer to carry out a badger survey to confirm there is no presence of badgers on site.

### **TSP8: Banff Road**

New Junction on A95/Banff Road to serve R6 and R7. Extension of footway along A95, relocation of speed limits and provision of street lighting.

### **Policy H8: Affordable Housing**

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

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

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

## **Policy H9: Housing Mix/Accessible Housing**

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

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

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

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

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

## **Policy E3: Protected Species**

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

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

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

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

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

## **Policy E4: Trees and Development**

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

## **Policy E5: Open Spaces**

### **Safeguarding Open Spaces**

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

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

## **Provision of new Open Spaces**

### **Quantity**

New green spaces should be provided to the following standards;

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

### **Quality**

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible
- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function
- Support the principles of Placemaking policy PP3.

### **Allotments**

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

### **Policy E9: Settlement Boundaries**

Settlement boundaries are drawn around each of the towns, villages and rural communities 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 for development under the terms of Policy H2.

(In accordance with policy H11, for proposals involving Gypsy/Traveller sites, a distance of 1km will be applied as being "immediately outwith".)

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

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

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

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

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

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

## **Policy EP7: Control of Development in Flood Risk Areas**

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

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

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
- Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

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

### **Policy EP8: Pollution**

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

### **Policy EP9: Contaminated Land**

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

- a) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and

- b) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/or treatment of any hazardous material.

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

### **Policy EP10: Foul Drainage**

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

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

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

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

### **Policy EP12: Air Quality**

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved.

### **Policy ER5: Agriculture**

The Council will support the agricultural sector by:

- a) Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.
- b) Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

Proposals for agricultural buildings with a locational requirement will be subject to visual, landscape and amenity considerations and considered against the relevant environmental policies.

### **Policy T2: Provision of Access**

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

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



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

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

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

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

Significant travel generating proposals will only be supported where:

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

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

### **Policy T5: Parking Standards**

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

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

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

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

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

## **Policy IMP1: Developer Requirements**

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

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

## **Policy IMP2: Development Impact Assessments**

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

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.

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

### **Policy IMP3: Developer Obligations**

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

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

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

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

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

#### **PP1 PLACEMAKING**

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo

survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.

- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;

**(i) Character and Identity**

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

**(ii) Healthier, Safer Environments**

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding

network to create walkable neighbourhoods and encourage physical activity.

- Integrate multi-functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect;
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

### **(iii) Housing Mix**

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

### **(iv) Open Spaces/Landscaping**

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

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

#### **(v) Biodiversity**

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

#### **(vi) Parking**

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

#### **(vii) Street Layout and Detail**

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

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

## **PP2 SUSTAINABLE ECONOMIC GROWTH.**

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

## **PP3 INFRASTRUCTURE & SERVICES.**

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

### **a) Development proposals will need to provide for the following infrastructure and services:**

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are

identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

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

**b) Development proposals will not be supported where they:**

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



- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

**c) Harbours.**

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

**d) Developer Obligations.**

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

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

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

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

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

**DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

## **(i) Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained.
- i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

## **(ii) Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for

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

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

### iii) **Water environment, pollution, contamination.**

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

### **DP2 HOUSING.**

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

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

#### **b) Piecemeal/ individual plot development proposals**

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

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

**c) Housing density**

Capacity figures indicated within site designations are indicative only. Proposed capacities will be considered through the Quality Auditing process against the characteristics of the site, character of the surrounding area, conformity with all policies and the requirements of good Placemaking as set out in Policies PP1 and DP1.

**d) Affordable Housing**

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

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

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

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

**e) Housing Mix and Tenure Integration**

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

Proposals must demonstrate tenure integration and meet the following criteria;

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

**f) Accessible Housing**

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

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

## **EP1 NATURAL HERITAGE DESIGNATIONS.**

### **a) Natura 2000 designations.**

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

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

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

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

### **b) National designations.**

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

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

### **c) Local Designations**

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

- i) Public benefits clearly outweigh the nature conservation value of the site, and
- ii) There is a specific locational requirement for the development, and

- iii) Any potential impacts can be satisfactorily mitigated to conserve and enhance the site's residual conservation interest.

#### **d) European Protected Species**

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

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

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

#### **e) Other protected species.**

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

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

### **EP2 BIODIVERSITY**

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

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

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

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

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

## **EP5 OPEN SPACE.**

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

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

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

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

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

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

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



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

## **b) Green Infrastructure and Open Space in New Development.**

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

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

### **i) Accessibility Standard.**

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

### **ii) Quality Standard.**

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

#### **Accessible and well connected.**

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

**Attractive and Appealing Places.**

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

**Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).**

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

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

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

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

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

### **iii) Quantity Standard.**

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

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

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

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

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

## **EP8 HISTORIC ENVIRONMENT.**

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

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

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

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

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

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

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

## **EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.**

### **a) Flooding.**

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

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

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

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

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

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

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

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

- a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
- Employment related accommodation e.g. caretakers or operational staff.

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

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

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

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

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

integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

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

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

### **c) Water Environment**

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

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

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

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

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

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

## **EP13 FOUL DRAINAGE**

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

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

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

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

## **EP14 POLLUTION, CONTAMINATION & HAZARDS.**

### **a) Pollution.**

Development Proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate

impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

**b) Contamination.**

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

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

**c) Hazardous sites.**

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

**R4 Banff Road North 8.52 ha 90 units**

- Planning permission has been granted for this site.
- The presence of overhead cables restricts the developable area. The layout must take the necessary safeguarding requirements into account.
- Significant structural landscaping/tree planting is required on upper slopes to integrate the site into the landscape. This must incorporate recreational footpaths.
- Feature tree planting must be provided along the eastern boundary.
- Road access must be considered in association with the Mixed Use (MU) site immediately to the south. An initial junction may comprise a priority T or ghost island. Land must be safeguarded to serve a roundabout to both sites.
- Re-positioning of the 30mph signs will require to be promoted by the developer for the roundabout access. Any initial priority junction must be designed for the 60mph speed limit.
- Any significant change to the extant planning permission must be supported by an updated Transport Assessment, which includes new traffic surveys at the A96/A95 Banff Road junction. A contribution towards this junction may be required.
- Hedging and feature tree planting must be provided along the A95 frontage incorporating a footway/cycleway.
- Badger Survey required.
- Pocket Park required.