

18/01453/APP

19th November 2018

Restore and convert existing Millie Bothy to office and erect 8 no self-catering holiday units at Millie Bothy Roseisle Beach Moray for Millie Bothy Ltd

Comments:

- A SITE VISIT has been carried out.
- The application raises matters of wider community interest and/or planning significance.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- Advertised as a departure from the development plan.
- 430 individuals submitted representations, of these 411 are objections and 19 are in support of the proposal.

Procedure:

None.

Recommendation

Refuse – For the Following Reason (s):-

The proposal is contrary to policies IMP1, PP3, ED7 and ED8 of the Moray Local Development Plan (MLDP) 2015 for the following reasons:

1. The introduction of tourism self-catering huts and the associated intensification of activity in this location would have a detrimental impact upon the secluded character and rural amenity of this sensitive area, therefore the proposal represents an inappropriate form of development for this location.
2. Development of the nature proposed would significantly alter the character of this unspoilt open dune area where its high amenity value for current users would be compromised by the introduction of an incompatible use. The existing dune area and grassland contributes to character and appearance of this wider area of unspoilt coastline.
3. The proposed accommodation would not be located so as to protect and enhance the natural environment in this location where this part of Roseisle Forest and its undeveloped nature is of wider benefit to tourism and the wider local community.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

Reference No. Version No.	Title/Description
SK_00_304	Fishing huts - elevations
SK_00_305	Plant/refuse store - elevations and floor plan
SK_90_101	Site plan - detail layout
SK_90_100 D	Site plan - general layout
901 A	Site sections
SK_00_102 A	Bothy ground floor
SK_00_303	Bothy elevations
SK_00_201	Bothy sections
SK_00_100 B	Site plan proposal
SK_00_100	Fishing hut - floor plan
SK_200	Fishing hut - sections
	Site plan showing location of treatment plant and soak-away
SK_90_104 A	Site location plan
SK_90_100 E	Site plan - general layout



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01453/APP

Site Address:

Millie Bothy

Roseisle Beach

Applicant Name:

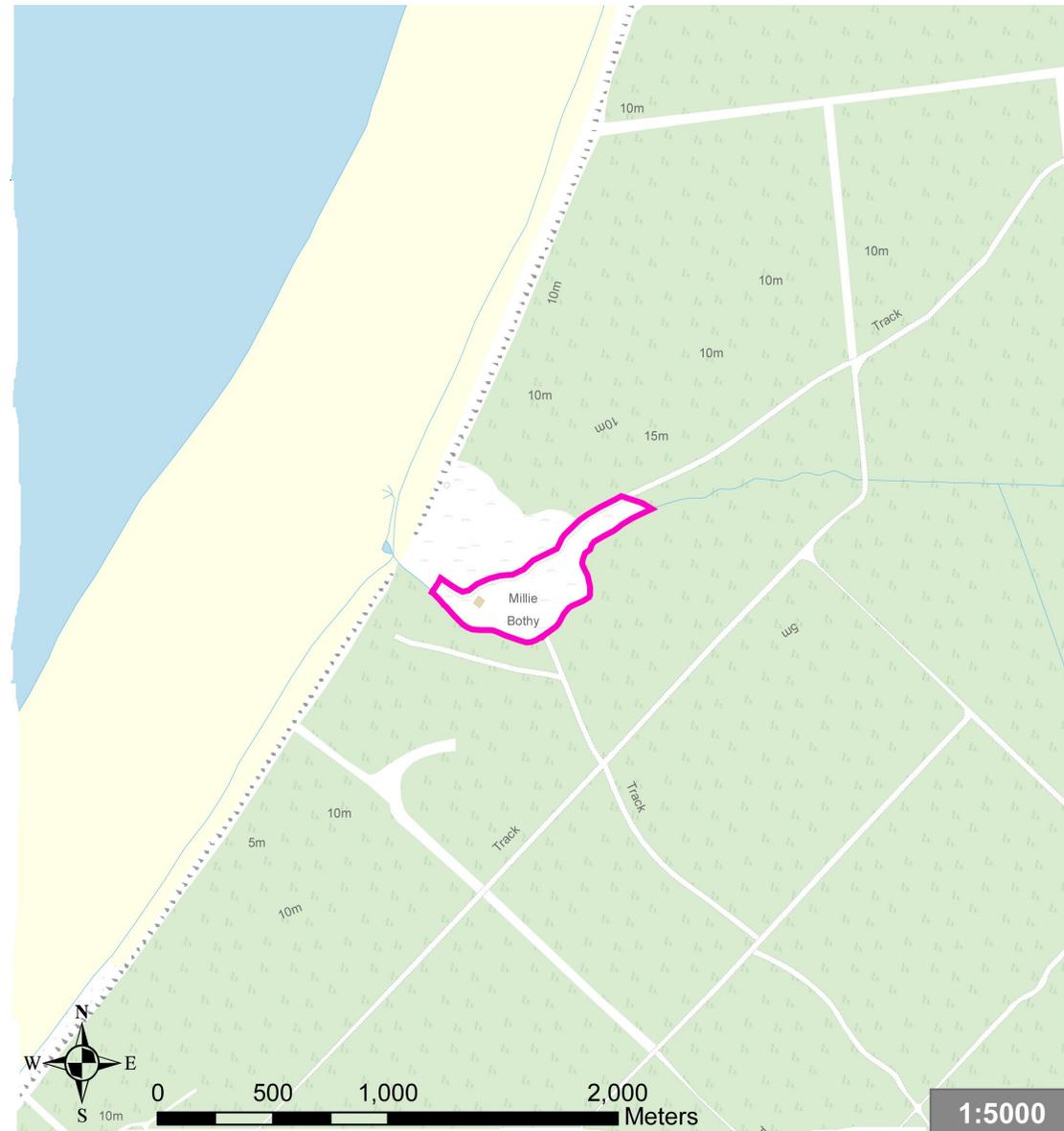
Millie Bothy Ltd

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Location Plan



Site Location



Site layout















PLANNING APPLICATION: 18/01453/APP

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

THE PROPOSAL

- Planning permission is sought to restore and convert Millie Bothy to an office/art gallery and erect 8 self-catering holiday huts at Millie Bothy, Roseisle Beach west of Burghead (following amended plans).
- The self-catering huts are located to the east of Millie Bothy in two rows.
- The self-catering huts would sleep 4 and have a floor area of 35sqm comprising 1 double bedroom, a shower room, kitchen and a dining/sitting room area.
- External materials of the self-catering huts include dark grey/black timber with dark grey/black profiled metal roofing.
- Millie Bothy (a former Fisherman's Bothy) will be re-built using reclaimed stone and red profiled metal roofing.
- Power for the site will be a combination of solar power, combined heat and power unit (CHPU), gas and wood. A Wood burning stove is proposed in each hut.
- Toilets will be compostable.
- Grey water will be disposed via a treatment plant.
- Water to the site will be provided by a desalination unit which will extract a maximum of 10,000 litres of sea water per week using a non-fixed commercial water hose (25-50mm in diameter). It is intended to lay the hose from the site to the sea at high tide once per week for a period of 2-3 hours.
- Vehicular access to the site for staff (3 per day) and service vehicles (2 per day) would be via an existing forestry access off the B9080 Kinloss to Burghead Road south of the site, this access would not be used by occupants of the self-catering huts).
- Car parking for occupants is proposed to be located within the existing Roseisle Forest Car Park under an agreement with Scottish Forestry where a voucher scheme is proposed. The car park is located 1.9 km from the site and a golf buggy will take less able walkers from the car park to the site along an existing forestry track.
- A new footpath is to be created along the eastern boundary of the site leading to the beach.
- Supporting Documents submitted with the proposal include a Planning Statement (Nov 2018), Design Statement (Nov 2018), Drainage Impact Assessment (July 2019), SUDs Statement (Nov 2018), Ecological Survey and Assessment (Nov 2018), Habitat Plans (Nov 2018), Designated Site Plan (Dec 2018), Desalination System Technical Information (Dec 2018), Letter of support from Visit Scotland (Jan 2019), Report for SEPA, Bat Roost Assessment (July 2019) and Supplementary Planning Statement (July 2019).

THE SITE

- The proposal site is approximately 7500 sqm in size and is located 1.9 km north east of Roseisle Forest Car Park.
- The site is located in a clearing within Roseisle Forest, 75 m from the coast. The Roseisle Forest (a coniferous plantation) bounds the site to the west, east and south, with an area of open coastal grass to the north.
- The site is currently coastal foreshore; the majority of the site comprises undulating vegetated dunes and grass. Some naturally seeded trees are located on the site around the boundaries of Roseisle Forest.
- Two paths run through the site that are used by the public, horse riders and cyclists. The paths connect the forest to the beach.
- Millie Bothy lies to the south west of the site. The Bothy was built in the 1800's and was used as a salmon bothy. The Bothy is currently a ruin, with only partial walls remaining and one gable wall intact.
- The Millie Burn runs along the south eastern boundary of the site.
- The proposal site bounds (northern boundary) the Area of Great Landscape Value (AGLV) and Coastal Protection Zone (CPZ).
- The north east section of the site lies within the National Forest Inventory Scotland (NFI) 2014.
- The sites western boundary is just out with the Moray Firth Special Area of Conservation (SAC). The site therefore does not occupy any environmental or landscape designation.

HISTORY

17/01563/PE – Proposed holiday accommodation – the response (November 2017) provides initial feedback on the proposal, including comments from consultees and information requirements expected to accompany any formal application for planning permission.

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

- Advertised for neighbour notification purposes and as a departure to the Moray Local Development Plan 2015.

CONSULTATIONS

Moray Access Manager – No objection

Contaminated Land – No objection

Moray Flood Risk Management – No objection

SEPA – No objection subject to a condition being attached to the planning consent (if permitted) regarding all development (buildings and plant) must be on land at 6m above Ordnance Datum (AOD) sea level or above in relation to the topographic survey provided.

Building Standards – A Building Warrant is required.

While the Building Regulations are considered under separate legislation to the planning application process, for information, the below requirements would have to be met.

As part of the Building Warrant verification process the applicant will be required to demonstrate that they meet the requirements of the Mandatory Standards (MS), this can either be by following the guidance contained in the clauses to each MS or by proposing an Alternative Solution where the intention is to deviate from said guidance.

Standing Advice given on Mandatory Standards for various subjects: -

- **FIRE - MS 2.12 - Every building must be accessible to fire and rescue service** (Clause 2.12.1 - Requires SFRS vehicle access be provided to at least one elevation of every building and Clause 2.12.2 - Requires that this access be a minimum of 3.7M wide and capable of supporting a minimum axle loading of 14 tonnes. Where the route is a dead end, then turning facilities will also be required within the site.).
- **MS 2.13 - Every building must be provided with a water supply for use by the fire and rescue service** (Clause 2.13.3 – This deals with Alternative water supplies and there are three options available under this clause:
 1. a charged static water tank of at least 45,000 litres capacity, or
 2. a spring, river, canal, loch or pond capable of providing or storing at least 45,000 litres of water at all times of the year, to which access, space and a hard standing are available for a pumping appliance (see clause 2.12.2), or
 3. any other means of providing a water supply for fire-fighting operations considered appropriate by the fire and rescue service.
- **SAFETY – MS 4.1 - Every building must be designed and constructed in such a way that all occupants and visitors are provided with safe, convenient and unassisted means of access to the building** (Clause 4.1.1 It is not a Building Standards requirement to provide parking within the curtilage of a development it is up to the developer or it is a planning requirement, Clause 4.1.2 There should be a setting down point for the development for the convenience of a person arriving at a building in a vehicle driven by another, Clause 4.1.3 There should be an accessible route to the principal entrance to a building, and to any other entrance that provides access for a particular group of people (for example, a staff or visitor entrance), from: a road, and any accessible car parking provided within the curtilage of the building. There should also be an accessible route between accessible entrances of different buildings within the same curtilage and Clause 4.1.5 The length of an accessible route to a building should be no more than 45M).

Scottish Forestry – Tree Survey required within the redline boundaries to establish the current habitat characteristics of the part of the site within the National Forest Inventory. Compensatory Planting required.

Transportation – No objection subject to conditions (regarding improvements to the service access and no water draining or loose material being carried onto the public road carriageway) and informatives being attached to the planning consent (if permitted).

Heldon Community Council – Object due to proposal being a departure from policy ED7 (Rural Business Proposal) and ED8 (Tourism Facilities and Accommodation) of the Moray Local Development Plan 2015, lack of information on flooding, proposed overnight parking arrangements for guests, service vehicle arrangements unviable and no measures can be put in place to prevent them becoming more frequent, insufficient information on location and maintenance of compostable toilets/plans and increased footfall could lead to erosion of sand dunes.

Scottish Natural Heritage – No objection - Advice on various subjects provided including:

- Moray Firth Area of Conservation (SAC), Appropriate Assessment in view of SAC's conservation objective for bottlenose dolphins is required (carried out by Moray Council, see **Appendix 3**);
- Moray Firth Special Protection Area (pSPA), consideration required on the status of the pSPA as the requirements of the Habitats Regulations applies;
- European Protected Species, Bats (survey required), Dolphins, Otters (appraisal required of potential disturbance as a result of human presence on the site overnight);
- Nationally Protected Species (Breeding Birds);
- Coastal Habitats and Plant Species (Habitat Management Plan required, covered by condition (if permitted). Habitat Management Plan to include an assessment of the extent of dune habitat affected – must be based on the locations of all relevant proposal elements, consideration of the impacts of the proposal on areas of dune habitat in relation to its policies on biodiversity and its responsibilities under Scottish and European law. This includes impacts arising from but not limited to the siting of all infrastructure and increased footfall/recreational damage by residents and visitors.
- Climate Change – Coastal erosion directly adjacent to the site.

Private Water Supply – No objection subject to two conditions being attached to the planning consent (if permitted) regarding an adequate and wholesome water supply being provided and effective treatment required to ensure that the private water supply complies with the relevant parameters in The Private Water Intended for Human Consumption (Private Supplies) (Scotland) 2017.

Strategic Planning and Delivery - Object – departure from policies E7 (Areas of Great Landscape Value and impacts on the wider environment), E8 (Coastal Protection Zone), ER2 (Development in Woodlands), ED7 (Rural Business Proposals), ED8 (Tourism Facilities and Accommodation), IMP1 (Developer Requirements), PP1 (Sustainable Economic Development), EP7 (Control of Development in Flood Risk Areas) and E3 (Protected Species) of the Moray Local Development Plan 2015.

In summary the response raises concern over the proposed development, where it fails to safeguard and protect the natural environment or landscape and would impact upon the recreational value of the Roseisle forest and beaches.

Officer note – the site was subsequently amended to remove it from the CPZ and AGLV designations, which is of relevance to assessment under policies E7 (Areas of Great Landscape Value and impacts on the wider environment) and E8 (Coastal Protection Zone).

Environmental Health – No objection

Marine Scotland – No objection

Aberdeenshire Archaeology – No objection subject to a condition (regarding a photographic survey being carried out prior to any works commencing) being attached to the planning consent (if permitted).

Developer Obligations – No contribution sought due to the nature of the proposal, it is not deemed to have a detrimental impact on local infrastructure that requires mitigation through developer obligations.

Equal Opportunities Officer – No objection. It is noted that for anyone with mobility issues a buggy would be available to take them from the carpark to the huts.

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).

430 individuals submitted representations, of these 411 are objections and 19 are in support of the proposal.

[Redacted content]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

One neighbour notification period was run during the consideration of the application all representations have been considered and are summarised below. Where issues raised are common to all representation or have been re-stated, the below summary will not reiterate/repeat issues clearly stated at least once. All objections/representations have

been read and where material, given the appropriate consideration prior to the recommendation now reached.

Headings of objection reasons selected by objectors from objection/representation web link:

- Affecting natural environment
- Road Access
- Inadequate plans
- Traffic
- Precedent
- Drainage
- Litter
- Over-development of site
- Contrary to Local Plan
- Parking
- Road Safety
- Noise
- Smell
- Activity at unsociable hours/behaviour
- Reduction of natural light
- View affected

The grounds for objection/representation are summarised as follows.

The main points of the representations are:

Affecting Natural Environment

- The proposal is detrimental to the surrounding natural environment in an area renowned for its beauty and history; it will destroy the ambience of the area and adversely affect this landscape of significant and regional importance.
- Environmental impact will be horrendous, not only through the construction phase but also during the running of the site. It will be detrimental to the environmental tranquillity of the uninhabited and undeveloped woodland and coastal experience of the Roseisle Forest.
- This is the urbanisation, of an easily accessible on foot, recreational area.
- Unnecessary and inappropriate to develop and destroy this naturally beautiful and wild environment.
- Loss of amenity and damage to biodiversity.
- It can only be a negative thing to bring building works, unnatural structures, obstruction of a view point and increased numbers of people concentrated in one area, bring litter, noise pollution, potential conflicts with existing users/locals and damaging localised foot traffic.
- The dune system is already a fragile ecosystem and a development such as this will not help its continued survival.
- Burghead Beach is one of few unspoiled beaches left in the UK.
- The area is unique in Roseisle Forest in that it has a freshwater burn entering the sea and a large clearing.
- The proposal is unacceptable in an area of natural beauty and unrestricted access.

- Despite the innovative design of the proposal, the site is simply too sensitive to accommodate a development of this scale and should be refused – an alternative site should be used.
- Over the last 10 years Roseisle has been subjected to numerous new builds within woodland, resulting in the severe loss of trees and wildlife.
- This is an unneeded development for this area, which is better served by the site remaining as it is. Unspoilt countryside can never be replaced.
- It would create much disturbance from greater footfall and vehicular access.
- The fact that it has no development and no human footprint makes it a huge attraction to our many visitors and to locals alike.
- This is a very special place the coastal path from Burghead to Findhorn is a huge asset to our Moray Coast. There are no other structures in the any part of the forest between Findhorn and Burghead apart from the car park toilet facilities and the remains of Millie Bothy.
- Any development no matter how sympathetic will intrude into the natural and wild aspects of this landscape and change it forever.
- Roseisle is a special kind of wilderness offering people an emptiness that is truly accessible and really very special which is held close in the hearts of many locals.
- The impact of construction, unnatural lighting, noise and human interference in one of the more wild spaces along our coast means this plan should be turned down.
- There are fewer and fewer areas in Moray where locals and visitors can walk, cycle, swim and sail without coming across developments such as this.
- It would be a sin to allow a development of this magnitude in this location.
- The ruined bothy is actually part of this ambience and contributes greatly to the surroundings. There should be a conservation order placed on this site.
- It seems counterproductive to allow a development on a piece of dune habitat for the benefit of a few people when dune restoration is in progress at Lossie forest at a huge cost. The large removal of dune and habitat links through the golf course has already taken place.
- Removal of marram grass will de-stabilise the dunes.
- Noisy and anti – social behaviour from guests is going to be detrimental to the quiet enjoyment of the locality.
- Is the dune system able to cope with the development?
- No information given on the felling of trees.
- Moray and its beautiful coastline have a world class tourism offering which needs protected from over-development.
- The Bothy is part of this ambience and contributes greatly to the surroundings.
- The fact there is no development or human footprint is what makes it a huge attraction to its many visitors.
- Change character of land use.

Comments (PO):

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity/character of the area.

An Ecological Survey and Assessment and additional was submitted that addressed some of the above issues adequately. In addition to this if planning permission were to be granted a Construction and Habitat Survey would be required to be carried out prior to any works commencing.

It is speculative to presume that visitors to the site would conduct themselves in an anti-

social manner.

Summary of comments from applicant:

Many objectors have stated that the development will affect the natural environment and have erroneously said that it will destroy the dune structure and negatively impact the local wildlife.

As per the Ecological report prepared by Dr Eric Donnelly of A9 Consulting:

A small amount of dune habitat will be altered and it is planned that this will be mitigated for by the removal of self-seeded conifers and scrub from the site. This is expected to lead to a net positive increase in the coverage of dune habitat.

Marram grass from area to be altered will be removed carefully and placed in the areas which have been altered under the conifers and also any areas damaged by foot passage or rabbit grazing. This will increase the coverage of Marram dune habitat however and so there is likely to be a net benefit to this habitat from the development in the short term. Rabbits are to be eradicated humanely as part of this development, which will reduce pressure on the dunes and have a benefit for the ecosystem stability.

Protected mammals namely badger, otter, pine marten and red squirrel will not be affected by the development.

The potential for roosting bats is low given the open nature of the site. If required, however, we will be happy to carry out further investigations to ascertain the presence or not of bats.

With regards to birds, the development will not have a significant effect and every care and attention will be taken during the construction phase to mitigate any negative effects on breeding birds.

The effect on the quality of the water in the Millie Burn has also been mentioned. As per our plans, all toilets are to be compostable so no sewage will be released into the burn. Furthermore, all grey water will be treated to SEPA standards. As per the Roseisle Land Management Plan 2015-24, the Millie Burn is defined as at "bad ecological status for heavily modified water bodies" and agricultural factors due to farms bordering the burn further south are a major determinant of the burn's condition. Any activity from Millie Bothy Fisher Huts will not have a detrimental effect on the burn.

It is also extremely important to note that the Millie Bothy site is only five acres in size and portion of which is being proposed for development is less than half of that. Roseisle Forest covers some 1,825 acres so the development area equates to 0.14% of the total forest.

Furthermore, as per the Roseisle Land Management Plan 2015-24 approximately 11% of the forest is classified as open space/felled therefore any claims that there will be a significant loss of open space is quite wrong. Indeed, there is a similar site to the west of the Millie Bothy which was the site of the former Bessie Bothy and icehouse and has a similar open feel.

Also, the buildings will be wooden huts and will be built in such a way that it is removable with little or no trace at the end of its life.

Greater footfall has been claimed by some objectors as a reason to deny this planning application. Roseisle Forest is visited by many people on a daily basis and an additional 40 people will be negligible in our opinion. According to a public consultation carried out by the Forestry Commission and referenced in the Roseisle Land Management Plan 2015-24, it was established that visits to the beach was the primary purpose of the majority of the respondents (70%) and so the area where the Millie Bothy is sees less people visiting than the main beach area.

Furthermore, during summer months, wild camping is already prevalent throughout the forest.

We will ensure that all lighting installed will be sensitive to the area and minimise light pollution. As we will be utilising solar powered lights for the most part, any lights will not be overly bright.

Every care has been taken with the placing of the huts on the site to ensure no views will be affected. Due to the height of the sand dunes to the north of the Millie Bothy site, the huts will not be seen from the beach and will have no effect on the visual identity of the Burghead – Findhorn coastline. Additionally, the huts will also be well hidden from the core path.

Design

- The buildings, in my opinion, are totally out of sympathy with their surroundings; it looks like a PoW camp from the aerial view.
- The proposed buildings are unsightly.
- The Millie Bothy ruin in its current state blends into the natural landscape and is a small reminder of the area's history without being an intrusion on the eye.
- Do not need more unsightly 'sheds' like those built along the shoreline at Findhorn.

Comment (PO):

It is agreed that the proposal would negatively impact on the site and surrounding area. Please see observation section for further information.

Precedent

- Areas like this are a valuable asset to the region and initiating this project could lead to further development creeping in the future once infrastructure is in place.
- Set a precedent for other developments in other local beauty spots.
- This would be part of a larger hut scheme.

Comment (PO):

The current application must be assessed on its individual merits and under the current Local Development Plan. Speculation about further proposals of a similar nature in Moray are not material to the current application and such proposals would be separately assessed under separate planning applications.

Summary of comments from applicant:

Some objectors have suggested that the development will set a precedent for further development within the forest. It is important to remember that the Millie Bothy site was previously the site of a commercial fishing operation and lodging for many years. Many objectors are relatively new to the area, as stated in their comments, and have no knowledge of the history of the Millie Bothy.

Approval of the development will set an undesirable precedent - in terms of this, it should be noted that every application requires to be considered on its own merits, taking account of the circumstances of the particular application. Approval of this application would not therefore set a precedent for the approval of any future applications here or elsewhere along the coast or within the forest.

Contrary to Policy

- Hope the Council support their own ambition to keep the Moray Coast undeveloped.
- The site is adjacent to a Coastal Protection Zone and identified as part of the Special Landscape Area Designation because of its qualities – for this reason alone it should be protected from development.
- Contrary to Moray Local Plan.
- In the Moray Woodland Strategy it states ‘promote biodiversity and safeguard the environment’ which the clearing and building will do the opposite. It is also meant to ‘promote the health and wellbeing of our communities’, current users of the site could be compromised.
- Woodland strategy has a key theme of expanding, protecting and enhancing our woodlands – this cannot be administered if the development goes ahead.
- Although the Roseisle Forest has been identified within the Moray Woodlands Forest Strategy (MWFS) (so glibly quoted by the applicant as justification for this development) as suitable for holiday lodges the assumption would be that they are constructed within the woodland, integrated into the trees, hopefully finished in natural looking timber and not, as is proposed, being constructed on one of the two remaining unspoilt open grassland areas that exist between Burghead and Findhorn.

Comments (PO):

The proposal is contrary to various policies of the Moray Local Development Plan 2015 as detailed in the observations section.

The proposal does however comply with the woodland policies of the Moray Local Development Plan 2015 and supplementary guidance as detailed in the observations section.

Summary of comments from applicant:

In respect then of the CPZ, Policy E8 makes it clear that development within the CPZ will generally be refused unless certain specific criteria are met. On the basis that no built development is proposed within the CPZ itself there is no conflict with Policy E8. In any event, the Policy makes it clear that the types of development that are considered appropriate in the CPZ include low intensity recreational or tourist use. In this regard 8 small scale units with a total floor area of 240m² on a site of 2ha (being equivalent to only 4 units per hectare) with these being off-grid and, as such, very low impact, should be considered low intensity and therefore to comply with this element of the Policy.

It should be noted that the proposed development would in fact enhance the experience of users of the forest through upgrading of the existing path that connects the forest to the shore, with the development located such that existing trees would screen this from users of the wood until they came into the clearing, with the refurbished bothy there to discover and add interest to a wide range of visitors. Likewise, it should be noted that the proposed development is in keeping with the most recent Landscape Character Assessment for the area as set out in paragraphs 3.21 to 3.23 of the supporting planning statement (submitted July 2019) (the 1998 assessment referred to in the Development Plan Team’s response

having been superseded by this, as set out above), and so also safeguards forest users' recreational experience in this regard.

A letter of support has also been submitted by Moray Speyside Tourism which likewise highlights the growing market for 'slow' tourism and the unique market opportunity that the huts at Millie Bothy would provide to capture this market. The letter also highlights that the proposed development is closely aligned with the Moray Woodland Strategy which emphasises the need to support local providers to develop schemes such as forest lodges or glamping huts and importantly identifies Roseisle as a potential location for such a development.

The development also clearly complies with the relevant specific criteria set out in Policy PP3 in that it:

- creates a place with character, identity and a sense of arrival - see Distinctive above;
- creates a safe and pleasant place – see Safe and pleasant below;
- is well connected and easy to move around, and designed to encourage social interaction and healthier lifestyles - in being easily accessible from the B9089 and with a regular bus service from Elgin to Roseisle, then restricting vehicular access requiring visitors to walk to the Bothy and the huts;
- includes buildings and open spaces of high standards of design, and which incorporate sustainable design principles – see the six qualities of successful place making below, and particularly Resource efficient, with the open space being the existing beach and surrounding woodland;
- does not have streets as such, but is designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars – see Easy to move around and beyond below, and also noting that there will be no cars parked on the site and no new car parking provided elsewhere; and
- maintains and enhances the natural landscape features and distinctive character of the area.

Policy PP3 Placemaking, seeks to encourage high quality design, in terms of which the proposed development demonstrates the six qualities of successful placemaking being:

- *Distinctive* – in that, by restoring the Millie Bothy in a way that respects the existing building fabric and stonework and creating new huts in a traditional local fisher hut style using a simple palette of materials and setting them within the existing undulations, the development clearly complements local features and creates a place with a sense of identity;
- *Welcoming* – in creating a sense of arrival in the clearing from the woods (whilst not being visible from the beach) and accentuating the Bothy as a local landmark;
- *Adaptable* – with the Bothy, once restored, being capable of being used for a number of purposes, and the huts (including the concrete piers) being removable so that the land can be restored to its current state;
- *Resource efficient* – with the huts being off grid, using solar power, combined heat and power and gas and wood, as well as compost toilets;
- *Safe and pleasant* – in that visitor vehicles will not be permitted on to the site thereby considering the place before vehicle movements, and that the huts are grouped in such a way as balance privacy with a sense of security through encouraging activity in the area; and
- *Easy to move around and beyond* – with, as stated above, the needs of people placed before the movement of motor vehicles, the provision of a golf buggy pick up service to allow access for those less able to walk, and the enhancement of the

existing path within the site and the creation of a new walking route around the Millie Burn.

Related to the location of the proposed development, Policy E7 Areas of Great Landscape Value and impacts upon the wider landscape and Policy E8 Coastal Protection Zone respectively seek to protect areas of great landscape value (AGLVs) and the Coastal Protections Zone (CPZ). While no built development is proposed within either the AGLV or CPZ, it is recognised that a small area of the application site as a whole extends into the Burghead Findhorn Coast AGLV and the Moray Coast CPZ (the coastline adjacent to the proposed development being dual designated as both) and that, given their proximity, due consideration requires to be given to the potential impact on these designations.

As there is no indication that the proposed development would have any negative impact on the AGLV, and it is demonstrably consistent with the landscape character as described in the LCA, there is no justification for refusing the application in terms of Policy E7.

The Proposed Local Development Plan (PLDP) also removes the current CPZ designation and replaces the existing AGLV designation with a new Special Landscape Area (SLA) designation. In terms then of the PLDP's spatial strategy, the application site is wholly included in the proposed Culbin to Burghead Coast SLA, and is also identified as being located in a pressurised and sensitive rural area.

Within the proposed SLAs, the PLDP will only permit developments where they:

- do not prejudice the special qualities of the designated area;
- adopt the highest standards of;
- avoid adverse effects on the landscape and visual qualities the area is important for; and
- are for one of a set number of uses, including proposals involving appropriate extensions to existing buildings (which this proposal does).

In terms then of the special qualities (including both landscape and visual qualities) of the proposed SLA, the statement of importance for this expressly recognises that the forests at both Culbin and Roseisle provide extensive recreational opportunities, both formal and informal, a characteristic which the proposed development would be in keeping with. It also notes that, of the two, Roseisle is more commercial in character and, while Culbin is described as less frequented and having a distinct sense of wildness, Roseisle is not referred to in the same way.

In respect then of sensitivity to change, it is noted that the more remote and strongly natural character of the coast in the Culbin area would be sensitive to significantly increased numbers of visitors, but the same is not said for the eastern part of the proposed SLA, within which the application site is located. There is then nothing in the statement of importance that would preclude the development proposed in terms of this application, with this being in keeping with the character of that part of the proposed SLA within which the application site is located, as described above.

Over-development of the Site

- Unwarranted over development of the site.
- Development is too large in terms of building and is out of place in design and in historical significance.

Comment (PO):

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area.

Summary of comments from applicant:

As per the Moray Woodland & Forestry Strategy, “The provision of high-quality, affordable, varied accommodation options in and around Moray’s woodlands is crucial to improving and developing tourism in Moray’s woodlands.” The proposed development comprising of just 8 huts is very small particularly when compared to other holiday developments in the surrounding area.

The Forestry Commission, who is the only other landowner, has already considered Roseisle Forest for the development of up to 60 cabins just a few hundred metres from the Millie Bothy Site. Whilst, on this occasion, a forest in the Borders was chosen rather than Roseisle it is conceivable that the Forestry Commission will choose to develop cabins at Roseisle in the future. If so, the Millie Bothy Fisher Huts would be much smaller in size and as they are off-grid, also less intrusive on the landscape.

Impact of Tourism

- The Roseisle forest while it remains unspoilt by development is a benefit to the local community and part of the attraction the area holds for tourists.
- The access to and from the beach via the bothy area is key to users of the area – the proposal will result in reduced numbers of people using the woods and have a negative impact on tourism.
- Wildlife tour guides use this area and it is appreciated by its visitors for its beauty.
- The Roseisle Forest is used for a large variety of activities including, walking, cycling, orienteering, nature rambles, school activities, horse riding etc – all of these would be negatively impacted by the proposal.
- There are other ways to boost tourism in the area.
- It would be a blow to our ecotourism economy if development and disturbance in the forest were to put visitors off coming for quiet enjoyment of this place.
- The applicant quotes tourism as a reason for allowing this development. This area is popular with locals and visitors alike because it is unspoilt and not developed.
- Tourism is frequently, disingenuously quoted in such applications; the Beach Huts at Findhorn are a classic example. They have in fact had a negative effect; many of the visitors have asked how these huts obtained planning permission, because they thought they actually detracted from the natural beauty.
- A nearby riding school takes hundreds of tourists through this area who has stated they will be effected by the proposal as they use the path that runs through the site to get down to the beach.

Comment (PO):

It is speculation that the proposal negatively impact on tourism in the wider area and something that is not possible to measure. However given the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area it could attribute to fewer visitors to the area. It does have to be acknowledged that the Moray Woodlands Forest Strategy (MWFS) does state there is a place for woodland tourist accommodation where it satisfies other local planning policies. See the observations section below.

Summary of comments from applicant:

This is contrary to the support we have received from Moray Speyside Tourism, who stated that “the proposed development would be a unique addition to the local tourism industry”. In addition, one of the key aims of the Moray Woodland & Forestry Strategy with regards to tourism is to promote an attractive, accessible woodland environment in which to stay, play and relax. The Millie Bothy Fisher Huts would do just that. The strategy strongly states that the provision of high-quality, affordable, varied accommodation options in and around Moray’s woodlands is crucial to improving and developing tourism in Moray’s woodlands.

The first of the primary policies, Policy PP1 Sustainable Economic Growth, supports proposals for development that contribute towards delivery of the Moray Economic Strategy, sustainable economic growth and the transition of Moray towards a low carbon economy, provided that the quality of the environment is safeguarded, and other relevant policies are met. The Moray Economic Strategy is considered in paragraph 4.14 of the supporting planning statement (submitted July 2019), in the context of which it should in particular be noted that the proposed development would make a positive contribution to the tourist economy through the provision of low carbon and highly sustainable tourist accommodation. The Moray Speyside Tourism economic impact report for 2017 indicates that visitors using non serviced accommodation in the area generated £50.55 per day; applied to Millie Bothy that would generate £294,403 of additional spend in the area over a 26 week period. In doing that the development will initially create 2 new full time and 4 new part time jobs to manage and maintain the site, with the potential for employment numbers to increase over time. At the same time, all other relevant policies (including those on safeguarding the environment) are addressed in detail elsewhere in this statement, in light of which it is submitted that the proposed development complies fully with Policy PP1.

The final section of the Local Development Plan is implementation policies, in terms of which Policy IMP1 Developer Requirements requires all new development to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area, and sets out a number of criteria which require to be complied with. Many of these cover considerations that have already been addressed elsewhere in the supporting planning statement (submitted July 2019), in addition to which the following comments are made with regards to concerns raised about the extent to which the character of the proposed development would be in keeping with the area:

- impact on the character of the unspoilt dune area, with further information sought on any proposed ground works - it should be noted that there will be no development on the dunes themselves; and
- impact upon the secluded nature and tranquillity of the area as a result of the introduction of tourist cabins and the associated intensification of activity – given the significant number of visitors to Roseisle forest on a daily basis at present (in the order of 35,000 per annum (according to the Forestry Commission Scotland All Forests Visitor Monitoring report from 2006) and up to 1,000 people per day at peak times), including visitors who wild camp throughout the forest during the summer, the relatively small number of additional people who will come to stay in the huts is considered to be negligible (less than 2.5% of the total number of visitors to Roseisle).

The Moray Economic Strategy specifically identifies tourism as a key growth sector and sets out an aim to double tourism spend in Moray by 2025. In particular, the Strategy highlights the importance of cultural activity and the contribution that this can make to the

tourism sector. The proposed development, which would provide sustainable tourist accommodation associated with the restored Millie Bothy, would not only help achieve the Strategy's ambitious aim of doubling tourism spend by 2025 (by generating £294,403 of additional spend, as set out in paragraph 3.6 of the supporting planning statement (submitted July 2109)), but would do so in a way that specifically aligns with the Strategy in terms of providing visitors with an opportunity to engage with cultural activity on the doorstep of their accommodation, with this also serving to promote the culture of the wider Moray area as a whole.

The proposed development then clearly aligns with the Moray Tourism Strategy in creating 6 to 10 additional jobs and providing an attractive new tourist accommodation offering and should be supported accordingly.

Wildlife

- The natural habitat of local wildlife will be adversely affected by the development and the access road that would be required to support it, including the disruption for drainage and services.
- Wildlife and habitats will be adversely affected by 24 hour occupation of the site. Roseisle Forest is of high diversity value, partly due to the extent of interrupted habitat. How will the proposal effect nocturnal creatures?
- The dunes support our endangered bumble bee population.
- The proposal will impact on many different types of wildlife including, red squirrels, bats which use the Bothy, various types of bird (including Nightjars, Swallows, House Martins, Sand Martins, Yellow Hammers, Crested Tits, Crossbills, Capercaillie), Pine Martins, Five Spot Burnet Moth, Cinnabar Moth, Dark Green Fritillary, High Brown Fritillary, Common Blue Butterfly and Speckled Wood butterfly.
- A further more detailed survey should be carried out at an appropriate time of year.
- The local herd of deer have almost disappeared from the area due to all the new houses spoiling natural wildlife corridors.
- Wildlife use the fresh water (Millie Burn) at the forest edge.
- The Millie Burn is a prime location for frog reproduction. Frog and tadpoles are sensitive to ecosystem disruption on both land and water; the proposal could add pollution to the burn which would harm them and birds.
- Newts breed in the Millie Burn.
- The introduction of vehicular emissions so close to the Millie Burn, is likely to affect the water eco system, and therefore all animals relying on it.
- There are pink flowered perennials called Centruy that grow in the area and are rare.
- Development already in the area is putting pressure on wildlife.

Comment (PO):

Scottish Natural Heritage were consulted on the proposal and have no objections subject to conditions relating to the compliance with the mitigation measures contained within the Ecological Survey and Assessment and Bat Roost Assessment being complied with and a Construction and Habitat Management Survey being undertaken prior to the commencement of works if planning consent was to be granted. See observations section for further information.

Further advice was sought from local bird (Birds in Moray and Nairn) experts who confirmed that it very unlikely Nightjars and Capericallie would use the site.

Flooding

- Proposal not sustainable in the long term as rising sea levels and sand erosion could render the site uninhabitable within a few decades.
- The sea is already eroding the dunes in this area.
- Object on the basis of flood risk, given the risks of climate change, do not think a proposal at sea level is a good idea.

Comments (PO):

SEPA, Moray Flood Risk Management and Scottish Natural Heritage have all been consulted on the proposal and have no objections. Of note, SEPA have stated that in the event of approval, the buildings would have to be positioned 6m above sea level. Please see observations and consultations for further information.

Drainage/Sewage

- As there is no access for sewage drainage to the site it could only be effectively supported through septic tanks which is not a suitable means of dealing with waste so close to such a pristine beach.
- Reed bed sewage treatment would pose a risk of contamination to the beach and members of the public or their pets using the beach, and would require fencing off and constant monitoring. It is also not immune from storm damage.
- Proposal will cause intrusive installation of all required utilities, in particular waste water/sewage.
- There is a risk from either septic or chemical toilets and waste water being released into the environment from heavy rain water or overflow discharge.
- Sewage smells would become an issue on the site and surrounding area, particularly at times of increased rainfall and flooding.
- Unacceptable for 'grey' waste/water to be added into the natural environment.
- SEPA object.
- Both human waste and refuse produced will contaminate the surrounding Forest and waterways as there is no way to effectively manage its removal.
- The grey water estimation is small and inaccurate.
- How will the foul drainage be monitored to ensure it is not contaminating the surrounding area? Especially during storm surges, flooding or excessive rainfall.
- How will smells from the effluent be reduced?

Comments (PO):

SEPA and Moray Flood Risk Management have been consulted on the proposal and have no objections to the proposal therefore satisfactory drainage is being provided.

It is speculative to assume that the composting toilets would generate an unacceptable odour nuisance in the locality.

Please see observation section for further information.

Summary of comments from applicant:

Under Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) surface water from development should be dealt with in a sustainable manner with a neutral effect on the risk of flooding, avoiding pollution and promoting habitat enhancement and amenity. Fairhurst are preparing a Drainage Impact Assessment which will demonstrate that the development complies with the requirements of this Policy.

Policy EP10 Foul Drainage allows for a private system in small scale developments in the countryside. The proposed development includes compost toilets, as set out in the SUDS Statement submitted with the application, providing an environmentally friendly water-free solution in accordance with this policy.

Water

- Concerned regarding the working of the desalination treatment. Little information provided.
- Scottish Water unable to confirm capacity for provision of water.
- Bringing bottled water to the site is an ecological tragedy.

Comment (PO):

The Environmental Health Manager (Private Water) was consulted on the proposal and has no objections subject to a condition being attached to the planning consent regarding an adequate and wholesome water supply being provided, therefore adequate information has been provided. Scottish Water utilities are not being sought for the site.

The volume of plastic bottles being brought to the site is not a material planning consideration, and nor would the number of bottles used justify refusal of the proposal.

Litter

- Increased litter, even with bins being provided there are no guarantees that they will be used. Litter effects the view and ecosystem i.e. animals and plants.
- There is already enough litter and mess on the beach which would be worsened by the proposal.

Comment (PO):

The applicant has confirmed that litter bins will be provided and that litter and general waste will be removed from the site on a regular basis by service vehicles for recycling and disposal.

It is speculative to presume that guests of staff would choose to litter the location. It is more likely that the presence of site management would deter and discourage littering in the location of the development.

Summary of comments from applicant:

As several objectors have stated the forest is used by many people. In particular this can amount to several hundred people visiting the forest daily at key periods such as weekends and summer in addition to large scale events such as the annual Easter Extravaganza organised by the Forestry Commission, the Roseisle Scottish Orienteering League held in October 2018 and the Pages of the Sea event held on Remembrance Sunday 2018.

We do not anticipate an additional 40 people staying at the Millie Bothy Fisher Huts will generate any increase in litter given the provision of bins within the huts and the fact that all waste and recycling generated by the development will be removed regularly. We are also willing to place some rubbish and recycling bins along the public path which crosses our site which we will empty regularly. As there is currently no provision at present for bins in this area of the forest, the development will actually help alleviate any problems of littering rather than adding to them.

Road Access

- The size of development will require intrusive access roads which if not controlled will attract traffic that is not related to the holiday units in the area.
- Even more of the forest will be destroyed and the ecosystem polluted with the access road and car parking.
- Refuse lorries will be unable to reach the site therefore how will waste be disposed of.
- The proposal is not off grid as stated as it can be accessed by vehicles.
- The current Bothy owner has a key to access the site in a vehicle off an opening off the B9080 which the Forestry Commission allow. The public use this access to access the forest on foot and leave their car parked near the opening. The prospect of 10/20 cars on their way to the bothy parking in this same area is not well thought through.
- How are emergency vehicles supposed to reach the proposal site? If an ambulance is required a SAR helicopter would be required to be called.
- No one will leave their vehicle and walk to the accommodation with luggage etc.
- Access not suitable for sustained road access.

Comment (PO):

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policy T2: Provision of Access.

The access track and car park proposed to be used are existing therefore no forestry is required to be removed in order to allow access to the site.

The applicant has confirmed that their service vehicles will remove all refuse from the site.

The applicant has confirmed that the emergency services will have the code to the locked gate on the B9080 access (access that the service vehicles etc will use) to enable them to be able to access the site if need be.

Summary of comments from applicant:

While the Bothy has historically had vehicular access from the Kinloss-Burghead road (the B9089) to the beach from the forest there is a lockable gate at the entrance to the forest. This means that no visitors to the Bothy or the proposed huts will be permitted to drive through the forest, with vehicles instead to be left at Roseisle Forest picnic area and the site approached on foot or by bike, with the option of a golf buggy for less able visitors.

In terms of access, Policy T2 Provision of Access requires new development proposals to provide the highest levels of access, including connections for cyclists and pedestrians, access by public transport and safe entry and exit from the development by all road users. The application site is easily accessible by a regular bus service. Once at Roseisle, the proposed development has then been specifically designed to discourage visitors from using private cars during their stay, with no vehicular access provided to the site itself. That means that there is no conflict with existing forest users, including dogs and horses, and no road safety issues. In addition, there are excellent links to the existing network of paths through Roseisle Forest, including the Moray Coastal Trail core path. The application is therefore consistent with the requirements of this Policy.

Policy T5 Parking Standards states that proposals for development must conform with the Council's parking standards. It has been agreed with Forestry and Land Scotland that the

existing parking at Roseisle Forest picnic area, where there is ample parking available, can be used for visitors to the Bothy and the huts.

Vehicular access will then only be available for staff and suppliers, in addition to which there are already arrangements in place between the Forestry Commission and Emergency Services such that the Emergency Services have keys and any relevant codes to allow them to access the forest if required.

Traffic

- Creating a vehicle access and the increase in traffic through the forest would pose a risk to the public, horses and dogs that use the area and be a continual nuisance for wildlife and the public.
- The proposal will introduce traffic into areas which are currently traffic free.
- Supply of gas and wood will require mid-sized vehicles to carry out this function.
- All current walking routes for the public on Roseisle forest have no traffic.
- Transport/parking arrangements have been underestimated and in reality the development will have a much bigger vehicular footprint than the planning documents suggest.
- Current forestry operations are minimal. This development would result in the constant use of core paths and other path and track networks by motorised vehicles.
- The track will become a busy road with the golf buggy.
- Never seen any traffic in the forest other than at the car park.

Comment (PO):

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policy T2: Provision of Access. The recommendation reflects the impact that will be felt within the forest of a having the service vehicles and golf buggy travelling on previously quiet forestry roads.

The projected number of vehicles accessing the site is proportionate to the size of the development. If this was to be breached it would be investigated by the Council's Enforcement Officer.

Summary of comments from applicant:

Once at Roseisle, the proposed development has then been specifically designed to discourage visitors from using private cars during their stay, with no vehicular access provided to the site itself. That means that there is no conflict with existing forest users, including dogs and horses, and no road safety issues. In addition, there are excellent links to the existing network of paths through Roseisle Forest, including the Moray Coastal Trail core path. The application is therefore consistent with the requirements of this Policy.

Parking

- How will the users of the huts get to them and where will they park?
- Are chalet occupiers going to pay the daily parking fee to the Forestry Commission?
- The proposal would cause possibly up to twenty additional parked cars at Roseisle car park.
- Users of the proposal would most likely be parking their vehicle closer than the current car park.
- No detail over site security and safety, cars parked at the Roseisle car park are at risk of theft and vandalism.

Comment (PO):

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policy T5: Parking Standards.

A voucher scheme is intended to be used for guests using the carpark at Roseisle.

It is speculation that guests would be parking their vehicles closer and this permission from the site owner which would not be allowed.

The matter of security of cars parked at Roseisle carpark is a private matter and it is speculative to presume that vandalism would occur.

Summary of comments from applicant:

As per our supporting planning document, Millie Bothy Fisher Huts guests will park at the existing public visitor car park adjacent to the picnic area at Roseisle Forest and walk to the Fisher Huts. The addition of 10 cars (1 per cabin) within the large car park will be negligible.

Road Safety

- In the interest of pedestrian safety the access road should remain along the old railway line.
- Who is going to maintain the roads and paths?
- The planning statement gives numbers of the vehicles projected to use the paths. How is this going to be policed?
- Boy racers could fly through the access track at speed if the gate is left open.
- Woods have had problems with motorbikes and travellers which may increase if this goes ahead.

Comment (PO):

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policies T2: Provision of Access and T5: Parking Standards.

The projected number of vehicles accessing the site is proportionate to the size of the development. If this was to be breached it would be investigated by the Council's Enforcement Officer.

Unauthorised users of the tracks is a private matter and where necessary for the police to address. It is speculative that the proposal could result in an increase of motorbikes and travellers using the area. Some of the points are speculative and may not occur.

Summary of comments from applicant:

As per our supporting planning document and above, guests will park at the Roseisle Forest visitor car park and then walk or cycle to the Fisher Huts in order to minimise traffic through the forest. Such arrangements are common at other holiday developments in rural areas and is also used at all Centre Parcs (forest based holiday parks). As per our ethos, we want guests to switch off during their stay and disconnect from all the stresses of modern life. This will begin as they arrive, leaving their car behind and enjoying a short walk or cycle through the forest to their hut.

It will be necessary for service vehicles to drive to the development entering the forest from the Burghead road but this will be kept to a minimum and has been agreed in principle with the Forestry Commission. It must be highlighted that the Millie Bothy has a vehicular right of access for commercial purposes that has been in existence since 1925 and we are free to exercise this, however, as we have been walking in the Roseisle Forest for several decades we understand and appreciate that every care needs to be taken to ensure the safety of all forest users. It is also important to note that Roseisle Forest is a working forest and its tracks are already used by Forestry Commission vehicles for harvesting/maintenance as well as others (people collecting firewood, hunters) so it is not unusual to see vehicles within the forest and to our knowledge there has been no issues related to this. All visitors to the forest whether they are pedestrians, cyclists, horse riders etc. should appreciate this. As per the Roseisle Land Management Plan 2015-24 access throughout the forest for management and harvesting is good and fit for purpose, with a good road network and good public road links.

Inadequate Plans

- No detail on how the CHPU will be run and the noise it may generate.
- How is the CHPU going to be backed up, no information regarding this has been submitted.
- Will a staff member be residing on site?
- The development looks as if it falls within land owned by the Scottish Forestry.
- The developer states that in their application the public rights to access would not be affected but since the bulk of the surrounding land is owned by Scottish Forestry this could be inaccurate.
- Where is treatment plant to be located?
- How is water going to be brought to site – where is the pipe going to lie?
- No indication is provided of how storage and handling of refuse will be managed to prevent litter spreading from the site into the surrounding area.

Comment (PO):

Environmental Health were consulted on the proposal and have no objections therefore the CHPU complies with their requirements. The design of the CHPU is not as specified and is anticipated to be located close to the plant room building next to the bin store and desalination plant. If the application were to be approved, details of the CHPU would require to be provided, although given the scale of the development, it is not anticipated that this unit would be a substantive piece of plant.

The applicant has confirmed that a staff member will be present on site at all times.

The applicant is creating an additional path along the site northern boundary for public use and the existing paths will not be for the exclusive use of guests of the self-catering units.

The treatment plant is located behind the huts on the eastern side of the site.

Please see observations section which details how water will be brought to the site. The pipe is going to lie from the service shed following the line of the northern Burghead beach path.

The applicant has confirmed that litter bins will be provided and that litter and general waste will be removed from the site on a regular basis by service vehicles for recycling and disposal.

Activity at unsociable hours/behaviour

- With people residing in the area much more disturbance will be caused to the woods, perhaps through the night.
- Fires will be lit with wood sourced from the forest causing more destruction.

Comments (PO):

It is agreed that the proposal will cause increased activity in the area through the day and evenings.

Where wood is sourced from for fires on the site is not a material planning consideration and it is speculative to presume that individuals cause destruction.

Summary of comments from applicant:

We will take every step to mitigate Activity of unsociable hours/behaviours. There will be a member of staff present at all times at the development and rules will be in place to ensure that guests do not create any disturbances. There will be a quiet time enforced from 10pm to 8am. Furthermore, guests will be for a large part confined to a very small part of a very large forest.

Other

- Why should local people have their precious amenity destroyed by business interests?
- It is a hopeless waste of forest for little more than capital gain.
- An act of environmental vandalism.
- Deforestation should be a crime here.
- The reason given for the restoration of the Bothy is already well served by the ice house and museum in Findhorn.
- No management plan for Giant Hogweed which is in the area especially for the second pedestrian bridge to the mouth of the burn.
- Local Business' would be detrimentally impacted. The scenic beauty of the area is a selling point.
- All this land is public land and should not be given over to private ownership.
- Many people use the forest and Bothy area to appreciate the benefits of being in the forest, it gives access to a peaceful natural environment, there are health benefits of an unpolluted area that encourages relaxation and exercise, biodiversity in the local ecosystem and environmental protection via erosion protection – all these benefits would be illuminated by this development.
- The housing is not for full time use. We need less holiday homes and more affordable housing (in the right area).
- Access will likely become restricted with the site being fenced off like a prison camp.
- Ample facilities in the present designated camping and parking area for tents, campervans etc. without the need for permanent structures like 'Glamping Huts' that would spoil the unrestricted access we enjoy.
- The proposal states that it will provide accessibility for visitors who may not ordinarily be able to access coastal locations however they are obviously not aware of the access point through the car park to the beach built specifically for wheelchairs and infirm walkers which leads to a safe and level decked area, encouraging access for all already.
- Object given the wide variety of accommodation at either end of the beach / forest and further afield.

- The term portable is a way to get around planning for the erection of buildings that will essentially be permanent.
- The proposal would detract from local holiday lets and caravan sites.
- The proposal has set an atmosphere of dread in the community.
- Wood burning stoves if proposed for the huts produce more CO₂ into the air which can take 100's of years to be reabsorbed into the trees. The proposal may involve removing these vital trees.
- Beach was recently used for Danny Boyle's recent remembrance celebration because of its beauty.
- There has been a huge amount of deforestation in the past 2 years in the Highlands.
- Hopeman beach is an example of what can happen to a fragile area if such development was allowed to go ahead.
- Will lights be left on overnight? This could cause light pollution and have a negative effect on wildlife.
- Outdoor barbeques will raise the fire risk.
- Will the reed beds pose a danger to children and possibly dogs?
- Application has not been advertised legally correctly?
- People live in the area for the empty beaches, wildlife and vast open spaces.
- All small benefits to the community would be outweighed by the effects of running this fabulous resource.
- Proposal is for commercial purposes not heritage.
- Suitable sites elsewhere in areas of Burghead and Moray.
- The perceived demand for glamping can be accommodated locally including the extension to the Burghead caravan park which is already approved in the Moray Development Plan.
- The whole area will be flattened to allow for development to take place.
- The site is over 0.5 hectare in size which meets the criteria for an EIA.
- There were never fisher huts on the site – there is no relevance.
- How are Forest users going to be given privacy from the huts?
- The site may be used by camper vans.
- Moray Council ignored the objections to the huts at Findhorn – these now sit mainly unsold bar 2 or 3.
- The Bothy is category C listed.
- The Millie Burn is sometimes used for farmer's irrigation and can be reduced to a trickle. Fire services therefore would not have access to water.
- The Bothy should be left as it is as testament to Moray fishing like Rosal to the north.
- There should be a conservation order on the site.
- Would not like to see the established network of paths disappear.
- Illegal dog fighting could take place as no one can see what is happening.
- Although a working forest, Forestry Scotland have worked hard to keep the unspoilt nature of this area.
- There are areas better suited to this type of development such as back of the woods near the farmland such as on the Burghead side of the woods rather than slap bang in the middle of the beach.
- It will split the Forest in two.
- Is not there enough sporadic housing all over Moray?
- How long before it gets turned into something like Central Parcs.
- Holiday homes are not required in the area, many currently run at low occupancy.
- Could be a disaster given the dry summer.
- Access to the beach would be restricted.

- Rare to find 7 miles of unspoilt beach.
- The success of the nearby picnic area opening access to the bay for public enjoyment is already showing problems of erosion.
- It will put pressure on existing amenities.
- Impact on safety of lone women walkers.
- Occupants would not look after site as well as the locals currently do.
- Moray is being over developed and the woodland is being eroded away.
- Too many stretches of coastline are destroyed, invaded by ribbon development.
- There are plenty art galleries in the surrounding area.
- Needs to be preserved - it is a jewel in the crown of Moray.
- An information board about the history of the Bothy is the only development that would be appropriate.
- Planning permission was sought in November, quite a fortunate time for the applicant when most tourists have been and gone and will not be able to add their objection to this planning notice.
- The proposal will dissuade people from using the area for their leisure.
- Re-routing the Moray Coastal Path inland around the boundary if the site fails to comply with the 'Right to Roam' legislation by preventing public access to the part of the shoreline included in the proposed development and it seeks to create an area of shoreline for the private and exclusive use of those paying to stay there. There is no reason for the redirection of the footpath other than exclusion of the public from this part of the shoreline. In turn it creates an unsafe legal precedent.

Comment (PO):

The current application must be assessed on its individual merits and under the current Local Development Plan. A lot of the above issues are speculative and are not material in the determination of the current application.

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area.

The applicant is not required to provide a management plan for giant hogweed however this issue can be addressed through the Construction and Habitat Management Plan that would be required by condition if the proposal was to be permitted.

The housing situation in Moray is a separate issue and is not relevant to this planning application.

If the applicant did wish to fence off the site, planning permission would be required. If a planning application was submitted for this it would be assessed under its own merits and would need to comply with the Moray Local Development Plan 2015.

The correct procedures have been followed in terms of the application being advertised. An EIA is not required for the proposal.

The Bothy is not a Listed building.

The issue of water being required for the emergency services would be covered by a building warrant.

There are several speculative representations about illegal or inappropriate conduct at the

site for which little material weight is attached. Notwithstanding the recommendation attached to this report, the scale of the impact suggested by many of the objections is disproportionate and unreasonable in comparison to the scale of small tourist accommodation proposal. The level of activity generated by the bothy renovation and 8 small tourist accommodation units need to be assessed proportionately.

Summary of comments from applicant:

Moray Council Access Manager, Ian Douglas, has approved our plans therefore we cannot envisage that the planning department would have any issues.

It has been incorrectly stated by some objectors that the development will restrict their access through the forest and to the beach. This is completely incorrect. As per plans submitted users will still be able to access the beach from the forest, crossing the Millie Bothy site. In fact, we will be upgrading the existing paths as well as providing an additional route to the beach from the eastern end of the site. As already stated, we have been visiting this area for decades and have no wish to prevent others from accessing the beach or forest through the Millie Bothy site.

It should be noted that the proposed development would in fact enhance the experience of users of the forest through upgrading of the existing path that connects the forest to the shore, with the development located such that existing trees would screen this from users of the wood until they came into the clearing, with the refurbished bothy there to discover and add interest to a wide range of visitors. Likewise, it should be noted that the proposed development is in keeping with the most recent LCA for the area as set out in paragraphs 3.21 to 3.23 (the 1998 assessment referred to in the Development Plan Team's response having been superseded by this, as set out above), and so also safeguards forest users' recreational experience in this regard.

Policy T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks aims to promote the improvement of sustainable and active travel. The application includes improvements to be made to the existing path across the site which connects the beach and forest (as agreed with the Moray Council's Access Manager), with other paths safeguarded and promoted to encourage walking and cycling in the area, hence ensuring compliance with Policy T7.

Matters which are not material to the determination of the application, include:

- land ownership and legal issues;
- lack of detail in the application;
- that there is no need for additional holiday lets;
- the development is purely for capital gain and driven by greed;
- that the development caters for the elite/privileged few; and
- there are other more suitable areas where the development could be located
- potential impact during construction.

Support

- There is a growing market for this type of proposal and it would be a unique addition to the local tourism industry.
- Will bring people to the area and create jobs in turn growing the local economy, it will benefit the entire community.
- Improvement to the local area is welcome, it will help local businesses.
- This is a great tourism opportunity for the Moray Area and Scotland.
Additional/alternative option to expanding existing caravan sites across the coast.

- The proposal is closely in alignment with the recently published Moray Woodland Strategy. The strategy identifies potential locations including Roseisle for schemes such as this proposal.
- In line with Scottish Government policy.
- The huts are from the fishing heritage that would showcase black fishermen huts.
- The proposal would not interfere with sight lines or view out to the coast, it cannot be seen from the beach, is not within an area of special designation, will not require the construction of additional roadways or major infrastructure.
- The forest is very accessible with car parking near to the site and there is potential to make best use of this by building 'accessibility' into the development so people who cannot normally reach these types of locations can.
- Believe any resolved issues can be overcome.
- Support the restoration of the Bothy as it means a lot to the fishing families of this area and its vast history as a salmon bothy. It would be great to see such a classic building restored.
- It would be great to shine a light on the fishing heritage of Moray.
- Works would be done sympathetically to maintain originality and beauty that exists.
- Upgrades to paths would be of great benefit to those who walk their dogs, ride horses and bikes through the forest.
- It would put Moray on the map.

Summary of comments from applicant:

The development proposed in terms of this application is supported by the Development Plan and relevant material considerations, in particular in terms of encouraging visitors to enjoy the area with the net economic benefit that this will bring, while doing so in a way that respects and maintains the landscape and natural heritage value of the site and surrounding area. Accordingly, the application should be approved.

OBSERVATIONS

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

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

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management & Building Standards Manager and the Strategic Planning and Delivery Manager.

Beyond the various supporting documents submitted with the application and referred to in the Proposals Section above the applicant's also submitted a further Supplementary Planning Statement (July 2019) seeking to demonstrate how the proposal fulfils the requirements of the Local Development Plan and other material considerations, where appropriate, responding to points raised in representations from consultees and members of the public. This has been taken into consideration and is available online.

**Moray Local Development Plan 2015
Siting and Design (IMP1, PP3 and Moray and Nairn Landscape Character
Assessment 1998)**

Policy IMP1 Developer Requirements requires new development proposals to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area and to be comply with set criterion (detailed within policy). These include amongst others the requirement for new development to be of a scale and character appropriate to its setting and for development to integrate into the landscape. Policy PP3 requires the highest standards of design.

The Moray and Nairn Landscape Character Assessment 1998 (MNLCA) forms part of the National Programme of Landscape Character Assessment. The National Programme aims to improve knowledge and understanding of the contribution that landscape makes to the natural heritage of Scotland, it considered the likely pressures and opportunities for change in the landscape, assesses the sensitivity of the landscape to change and includes guidelines indicating how landscape character may be conserved, enhanced or restricted as appropriate. It is noted that the 1998 MNLCA has been replaced this year by Scottish Natural Heritage's Landscape Character Type map and associated Landscape Character Type Descriptions. As the landscape character in this area being coastal forest has remained unchanged the assessment of the proposals against these above policies remains consistent.

The proposal would be set back from the beach and largely screened by vegetated sand dunes when viewed from beach. However this unspoilt and quiet area is well used by the public and horse riders as evidenced by the network of well used paths across the site which provide a direct access onto the beach and circular route back to the Scottish Forestry car park. The introduction of 8 self-catering huts and the associated intensification of activity in this location would have a negative impact upon the secluded nature and tranquillity of this area.

Existing built infrastructure along the coast and within the immediate hinterland is minimal and principally comprises WWII defences which are of cultural heritage significance. While some built development is associated with the Forestry Commission car park to the south-west of the site, this is low-key comprising a small timber toilet block. The proposed development would introduce more substantial buildings and associated infrastructure sited close to existing well-used footpaths. At the local level, this development would adversely affect views, diminishing the sense of naturalness and seclusion that is associated with this coast.

The Millie Burn presently provides a contrast with the forest, with open species-rich grassland and scrub around the burn creating an intimately-scaled glade surrounded by

mature pine trees. The proposal would diminish this contrast, largely filling this open space and significantly detracting from the sense of naturalness experienced by walkers. Roseisle Forest and Beach is easily accessible by car yet offers an experience of seclusion and naturalness to the many people who visit the area. The proposed development would adversely affect appreciation of these qualities therefore the character of it is not appropriate for its setting.

In terms of policy regarding siting and design the proposal fails to meet the requirements of policies IMP1 and PP3 and the associated guidance.

Rural Business Proposal / Tourist Accommodation (ED7 and ED8)

Policies ED7 and ED8 both set out a number of criteria that must be met in order for a development to be permitted. This includes a locational justification, account being taken of environmental considerations including the impact on natural and built heritage designations, with appropriate protection for the natural environment; careful control over siting, design, landscape and visual impact.

Supporting economic development and to sustain employment in rural areas, by granting approval to new business proposals that fit into the environment and can be adequately serviced is a Council priority. One of Moray's main attractions is its unspoilt and undeveloped environment, with heritage, scenery, and outdoor activities being key features. By supporting this asset and maximising economic and employment opportunities, care must be taken to ensure that the assets which create this attraction are not damaged by inappropriate or unsympathetic development.

The supporting statements from Moray Speyside Tourism and Visit Scotland note that it is accepted that there is scope for a tourism proposal of this nature at Roseisle. Both Moray Speyside Tourism and Visit Scotland agree that there is an increasing market for this type of development in the area. Visit Scotland are encouraged to see investment in new experiences for visitors at a time when tourism is a key sector for growth in Moray Speyside and state that this development is exactly the kind of high quality asset advocated within the national tourism strategy Tourism Scotland 2020. Visit Scotland added that they are committed to providing any industry support required throughout the development process, be it through our Quality Assurance scheme, marketing support, data and trends analysis, or strategic support. Moray Speyside Tourism highlight that the proposal is closely in alignment with the recently published Moray Woodland Strategy in that the strategy highlights the need to support local providers to develop schemes such as this and identifies Roseisle as one of the potential locations for this. Moray Speyside Tourism add that potential could exist to make best use of this by building 'accessibility' into the development, to attract visitors who may not ordinarily be able to reach such beautiful locations.

However, given the unspoilt character, secluded nature and tranquil qualities of this particular site and the fact it is in a woodland clearing and not contained within woodland the proposal is considered not to be in an appropriate location.

Despite a locational justification being provided the proposals are considered to fail to meet the further criteria set out within Policy ED7 and ED8 as they fail to safeguard or protect the natural environment due to the adverse landscape and visual impact associated with the development. The recreational enjoyment and character of the woodlands would be adversely impacted by introducing this type of development to this

site, especially given there would be a 24 hour presence of activity. Therefore the criteria in policies ED7 and ED8 have failed to be met.

Coastal Protection Zone (CPZ) and Areas of Great Landscape Value (AGLV) and impacts on the wider environment (E7, E8 and Moray and Nairn Landscape Character Assessment)

The site sits adjacent to both a Coastal Protection Zone (CPZ) and an Area of Great Landscape Value (AGLV). The aim of these policies is to protect strategically important landscapes from inappropriate development and protect and enhance the Moray Coast for its landscape, nature conservation, recreation, and tourism benefits.

Despite the site being located out with the CPZ, consideration must be given to policy E8 where it states that proposals must not prejudice the objectives of the CPZ or adversely affect the landscape importance of the area. Notwithstanding the policy issues raised under policies PP3, ED7, ED8 and IMP1 the location of the proposal within a forest where views of the development are acknowledged to be restricted to the immediate locality do not depart from the wider landscape protection afforded by the adjoining CPZ designation.

The AGLV policy also takes account of impacts on the wider landscape and states that proposals must be in general accordance with the Moray and Nairn Landscape Character Assessment 1998. Given the age of this assessment, and the presence of subsequent updated SNH guidance, limited weight is attached to the 1998 guide, albeit the wooded coastal landscape in this area will not have altered much over the proceeding decades, and is still classified in the new guidance as coastal forest.

The proposed development lies within the Soft Coast landscape character type as defined in the 1998 Moray Landscape Character Assessment. Within the assessment it is identified that tourism/recreational development is not easily accommodated within this Landscape Character Area and advises such development should be located within service corridors, urban settlements or within the adjoining Coastal Forest Landscape Character Area to protect and retain the natural landscape character and avoid impacts on the soft coastal shore landscape. The Coastal Forest Landscape Character Area further states that any new facilities should be located within the forest, where they are screened from adjoining this Landscape Character Area to conserve the remote character of forests and to continue to limit vehicular access to the sensitive Soft Coastal Shore Character Area, so as not to diminish the experience of "discovery" which is commonly felt when walking through the forest to reach the coast. New recreational facilities should also be carefully planned and sited to retain the secluded feel of "natural forest" such that buildings and associated facilities are located away from these areas. On this basis the proposed development is not in accordance with the guidance set out in the Moray and Nairn Landscape Character Assessment and would have failed to comply with Policy E7 Areas of Great Landscape Value had the site not been amended to remove its presence from within the AGLV. On similar grounds to the assessment of the CPZ above, where the visual extent of the proposed development would be very limited from the adjoining AGLV due to the woodland setting, it is not considered not to depart from the policy.

As the site has been modified to remove its presence from within the CPZ and AGLV, the reference to landscape character assessments under policy E7 is less applicable, and no longer constitutes a departure. Other policies of the Local Development Plan still have a role in protecting landscape character outwith the CPZ and AGLV designations.

Access and Parking (T2 and T5)

Policy T2: Provision of Access requires that 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. Policy T5: parking standards states that proposals for development must conform with the Council's current policy on parking standards.

The applicant has indicated that parking space for users of the site will be made available within the existing Roseisle Forest Car Park under an agreement with Forestry Enterprise Scotland (FES), rather than providing the required number of spaces within the site itself where there will no vehicle access for visitors. Transportation considers that there is ample space within the Roseisle Forest parking area to accommodate for holiday let users and that ongoing management of this is a matter for the applicant and FES. The site is remote from the public road and therefore no parking issues are envisaged. Parking for the office building is to be provided within the site.

It is proposed to take vehicular access from an existing forestry access off the B9089 Kinloss to Burghead Road. Information has been provided in the supporting statement demonstrating a low number of daily vehicle trips generated by the site at this access, which is already utilised by recreational users of the Forest. Transportation therefore considers this to be an appropriate arrangement subject to a degree of resurfacing where the access track meets the public road to ensure no damage to the edge of the road, particularly during construction.

Transportation has no objections subject to conditions and informatives being attached to the consent if it were to be permitted. Proof of the agreement for parking with the FES would need to be provided prior to development.

European Protected Species (E3)

Nationally protected species are defined in the Wildlife and Countryside Act 1981. Under policy E3 any development proposals that would have an adverse effect on a European Protected Species will not be approved.

An Ecological Survey and Assessment Report (dated October 2018) was submitted with the proposal. The purpose of the survey and assessment were to determine any potential impacts from the development on designated sites, natural habitats, protected mammals and birds on and around the site and to propose mitigation where required.

Bats

Regulations 39 and 43 of the Habitats Regulations provide full protection for certain animals and plant species. All species of bats in the UK are European Protected Species (EPS).

The Ecological Survey and Assessment report acknowledged that survey work was undertaken out with bat survey season and indicated that the inner sections of the ruins of Millie Bothy offer numerous potential roost features for bats. Scottish National Heritage (SNH) recommended that a follow-up survey was undertaken at an appropriate time of year.

A Bat Roost Assessment was submitted to the Council in July 2019. It indicates that the Millie Bothy is used as a bat roost - a single pipistrelle bat was found within the stonework during a roost assessment undertaken on 23 April 2019. Bat activity surveys carried out

23 May 2019 and 28 June 2019 confirmed bat activity in the area (common and soprano pipistrelles). The report indicates that there are a number of cavities within the bothy structure – these are not suitable for hibernating bats but may be used by a small number of non-breeding bats (including as a transition roost).

The bat found roosting in the Millie Bothy was identified as a pipistrelle though the species could not be confirmed, with common and soprano pipistrelles being active in the area. Both common and soprano pipistrelle bats are not uncommon species and the loss of roosts used by a small number of either species is unlikely to be detrimental to the maintenance of these species at a favourable conservation status in their natural range.

Given that the bothy is used as a bat roost, a licence from SNH will be required prior to any works commencing (in addition to any planning permission). The report gives an outline of relevant proposed mitigation measures for bats (section 6, page 5), noting that further detail will be required to accompany any licence application. SNH agree that these are all appropriate and that, subject to a sufficient level of detail being provided to satisfy the requirements of a licence application to SNH, a licence is likely to be granted. However, SNH recommend that, where minded to approve the development, the Council should first satisfy itself that the licensing tests are likely to be met: **Appendix 2** concludes that the tests would be satisfied. Alternatively, the work could be carried out under a Bat Low Impact (BLIMP) licence with an ecologist holding a current BLIMP licence, subject to all conditions being satisfied/adhered to. A condition regarding this would be attached to the planning consent (if it were to be permitted).

Bottlenose Dolphins

Under the Habitats Regulations, all competent authorities must consider whether any plan or project will have a 'likely significant effect' on a Natura Site. If this is the case an 'appropriate assessment' must be carried out.

The proposal site lies adjacent to Burghead Bay which forms part of the Moray Firth Special Area of Conservation (SAC) and the Moray Firth proposed Special Protection Area.

The status of SAC means the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, the Moray Council is required to consider the effect of the proposal on this site before the proposal can be consented (commonly known as Habitats Regulations Appraisal).

A Habitats Regulations Appraisal was undertaken by the Council – see **Appendix 3**.

There is potential for the proposal to impact on bottlenose dolphins from the intended sea water extraction, this could happen from noise and vibration if they happen to be passing the area at high tide.

To mitigate any disturbance the operatives will search the area using visual observation and binoculars for the presence of dolphins before and during abstraction operations. If dolphins are spotted, the operations will halt and wait until the dolphins have passed. These mitigation measures will avoid any impacts on the SAC or SSSI with habitats as qualifying interests by ensuring that no dolphins are disturbed as a result of the proposal.

Burghead bay is used by other species of cetacean (all species of cetaceans are EPS). SNH have advised that measures proposed to protect bottlenose dolphins are suitable to avoid any disturbance to all species of cetaceans.

Otters

The Ecological Survey and Assessment report confirms that the area is used by otters.

The proposed development will increase human activity in the area, especially at hours where there is currently no or very little human presence i.e. overnight. Given that otters tend to be active at dawn and dusk, the development has the potential to disturb otters by way of human presence at a time when there is currently none. Further information was sought from the applicant in the form of an appraisal of impact on the otters as a result of increased human activity.

An appraisal was received which detailed measures to reduce any such impact of the proposal on otters. SNH agreed that they were appropriate and recommended that these be implemented in full in addition to the measures listed in the Ecological Survey and Assessment Report (page 33 along with the general mitigation measures for mammals on page 34). This would be covered by a condition attached to the planning consent (if permitted).

Birds

The Moray Firth proposed Special Protection Area (pSPA) has been proposed under the EC Directive 79/409/EEC on the Conservation of Wild Birds (the "Birds Directive") for populations of breeding shag and non-breeding common scoter, eider, goldeneye, great northern diver, long-tailed duck, red breasted merganser, red-throated diver, scaup, shag, Slavonian grebe and velvet scoter. The status of the pSPA means that the requirements of the Habitats Regulations Apply.

SNH have advised that an appropriate assessment is not required due to the proposal being unlikely to have a significant effect on the pSPA bird species.

A condition will be attached to the consent (if permitted) for a Construction and Habitat Management Plan to be developed by the applicant prior to the commencement of works; this will be required to be approved in writing by the Council, as Planning Authority in consultation with SNH. This will cover the protection of birds amongst others species and plants.

Butterflies

Representations raised the issue that rare butterflies and moths use the site and surrounding areas. Therefore the Construction and Habitat Management will be required to address protection measures for these butterflies and moths.

Measures required in order for them to be protected include:

- Identifying any areas of the food plants.
- Siting development on areas that do not include the food plants or consider translocation of turves before development commences.
- Avoiding works in areas where the food plants are present at times when the life stages of insects are vulnerable – eggs (Mid May – Mid July), caterpillars (August – April) and chrysalis (April – May) – or consider searches to re-locate these stages to near-by food plant areas (adults can fly away and so are not so vulnerable).

Plants

A representation raised the issue that some plants (Astragalus danicus, Centaurium erythraea, Gentianella amarella, Potamogeton filiformis and Valerianella locusta) that are rare to Moray and/or are on the Scottish Biodiversity List within the proposal site.

The applicant provided information that showed that these plants are on areas of dune land that are not to be developed. As a result of this SNH advised a botanical survey is not required but the Construction and Management Plan should take account of these plants to further enhance the suitability of habitat for them.

Subject to the above mitigation and methodologies, the proposal is compliant with the requirements of policy E3.

Woodland (ER2 and E4)

Policy E4 Trees and Development and ER2 Development in Woodlands both seek to protect, compensate for the loss of woodland or collectively seek to protect woodlands from inappropriate development. A small section in the north eastern area of the site is within the National Forest Inventory (NFI).

Following consultation with Scottish Forestry they advised that there was insufficient detail regarding the possible tree removal, protection throughout the construction phase or prospective compensatory planting and were unable to comment fully.

The applicant has confirmed that no trees are required to be felled for the proposal. A condition would need to be attached to the consent (if permitted) to ensure that all existing trees on the site are retained and protected during the construction phase. Given the above it has been considered unnecessary to ask the applicant for compensatory planting to be provided.

Water (EP4)

The aim of policy EP4 is to ensure safe water supplies where a private source is to be used.

Water to the site will be provided by a desalination unit which will extract a maximum of 10,000 litres of sea water per week using a non-fixed commercial water hose (25-50mm in diameter). It is intended to lay the hose from the site to the sea at high tide once per week for a period of 2-3 hours.

Water abstraction is regulated by SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) (as amended). In specific regard to SEPAs regulatory remit for abstraction, coastal and transitional water abstractions $10\text{m}^3/\text{day}$ fall under General Binding Rule (GBR) 2. For activities that fall under GBRs the applicant/operator/owner is not required to apply for formal authorisation from SEPA but must comply with the requirements of the GBR. So, provided the abstraction is $10\text{m}^3/\text{day}$ as has been stated, it would fall under GBRs. For abstractions greater than $10\text{m}^3/\text{per day}$ a registration would be required.

Environmental Health Manager (Private Water Supplies) has no objections to the proposal subject to conditions being attached to the consent (if permitted) that ensure a wholesome and adequate water supply is provided.

Marine Scotland has no objections to the proposal. The proposal is therefore considered to be compliant with policy EP4.

Drainage and Development within Flood Risk Areas (EP5 and EP7)

Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) stipulates that 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 aim of policy EP7: Control of Development within Flood Risk Areas is to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. It also states that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere.

Moray Flood Risk Management (MFRM) and the Scottish Environment Protection Agency (SEPA) were consulted on the proposal due to the site lying being partially within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of fluvial flooding from the Millie Burn.

According to SEPAs Land Use Vulnerability Guidance the proposed art gallery/office would be considered as a “least vulnerable” land use, therefore it is required to be demonstrated that the location of the building is out with areas at medium to high risk of flooding (1 in 200 year flood extent). The self-catering huts would be classed as a “most vulnerable” land use, therefore they require to be located out with areas at medium to high risk of flooding (1 in 200 year flood extent), with mitigation provided to the level of the 1 in 1000 year flood event for example through ground levels or finished floor levels.

Both MFRM and SEPA objected to the proposal on the grounds of insufficient information with regards to flooding and drainage.

MFRM required a Flood Risk Assessment (FRA) and a Drainage Impact Assessment (DIA) to be submitted. SEPA required a FRA to be submitted.

Revised plans were submitted that reduced the number of self-catering units on the site to 8, site sections, a topographic survey and a “report for SEPA” were also submitted.

Flooding

With regards to the conversion of the Bothy to an art gallery/office the ground levels at the bothy are in the region of 5.5m and are in excess of 6m to the west of the bothy. The topographic survey and cross sections provided indicate that the ground is undulating in the area and that the ground levels between the bothy and the Millie Burn rise to be higher than that of the opposite bank. As such, any out-of-bank flow on the side of the site is limited by the height of the opposite bank which would over top and drain water to the south before reaching a depth which would impact the bothy. Taking into account that this is a conversion to a “least vulnerable” land use, SEPA recommend that finished floor levels should have a minimum of 500mm freeboard above ground levels and that emergency pedestrian access is made available to connect the building to the higher ground to the west.

The ground level at the huts ranges between 6.09m and 6.23m with finished floor levels ranging between 6.24m and 6.68m. The store building has a proposed ground level of 6m

and a finished floor level of 6.15m. As such, the holiday units are unlikely to be at risk of flooding from the Millie Burn.

SEPA removed their objection to the proposal subject to a condition being attached to the consent (if permitted) to ensure that all development (with the exception of the conversion of the Bothy to an art gallery/office) is on land at 6m or above in relation to the topographic survey provided.

MFRM stated that based off the information provided in the SEPA response it is understood that the development is being constructed in such a way that it is out-with the flood risk levels in the area, as all building levels shall be above 6m above sea level. As such MFRM removed the need for a Flood Risk Assessment as they were satisfied that the applicant has met the requirements set out in the Moray Council Flood Risk and Drainage Impact Supplementary Guidance with regards to flooding. Their objection to the proposal in terms of flooding is therefore removed. The criterion in the policies regarding flooding has been met.

Scotland's National Coastal Change Assessment (NCCA) identifies a pocket of erosion directly adjacent to the proposed development site. Scottish Natural Heritage (SNH) has recommended that new development be located away from shorelines susceptible to erosion and to avoid development of unprotected shorelines where development cannot be adequately safeguarded over the lifetime of the development without the construction of coastal defences.

As part of the consultation response received from SNH comments were raised in relation to coastal erosion. Following discussions with SNH and Moray Flood Risk Management regarding this it was agreed that if the applicant confirmed that coastal protection measures were not required as part of this development proposal with regard to the Climate Change (Scotland) Act 2009, the Council would not be seeking any further information i.e. studies in relation to this matter. The applicant confirmed that no coastal protection measures are necessary as part of this development. The applicant has been made aware that there is a possibility that coastal erosion could at some point become more evident adjacent to the proposal site and if it were to occur during the life span of the development (should it be approved at any point following consideration), the Council would not provide any form of coastal protection for the site as the policy is one of managed retreat.

Drainage

MFRM required a DIA to be submitted to demonstrate that the post-development runoff rate does not exceed the pre-development runoff rate or increase flood risk through discharge to a receiving watercourse. The DIA should demonstrate that the surface water drainage system adopts Sustainable urban Drainage System (SuDS) principles and specifications in accordance with current legislation and guidelines, such as CIRIA C697 – The SuDS Manual. All drainage systems must be designed to a 1:30 year return period, including climate change, without surcharging. Where infiltration is proposed, infiltration tests are to be completed at the location of the rainwater soakaway as well as calculations and design of the soakaway to be provided. Infiltration tests should be undertaken in accordance with Building Research Establishment (BRE) Digest 365.

A DIA was submitted and reviewed by MFRM, who in turn removed their objection to the proposal.

Conclusion and Recommendation

As detailed above the proposal fails to comply with policies IMP1, PP3, ED7 and ED8 of the Moray Local Development Plan 2015. The reasons for this include the self-catering huts and the associated intensification of activity having a detrimental impact on the secluded nature and tranquillity of the area making development inappropriate in this location. The proposal would significantly alter the character of this unspoilt dune area resulting in significant visual intrusion to the detriment of the character and appearance of the area of coastline.

It is appreciated that the proposal does comply with the other policies of the Moray Local Development Plan 2015 as detailed above and the applicant has proposed various means of mitigation and management for their site, to preserve environmental and amenity concerns.

Overall the proposal is unacceptable and does not accord with all the required policies of the Moray Local Development Plan 2015. It is recommended that the application is refused.

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Development Management & Building Standards Manager**

APPENDIX 1

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 sqm 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 ED8: Tourism Facilities and Accommodation

The Council will generally support proposals which contribute towards Moray's role as a tourist area. All proposals will require to

- a) Be compatible with policies to protect and enhance the built and natural environment
- b) Provide adequate infrastructure arrangements (e.g. roads, parking, water, drainage), and
- c) Demonstrate a locational need for a specific site.

Developments built as holiday accommodation (e.g. caravans or chalets) should be retained for that purpose and not become permanent residences. Conditions will be applied to planning consents to control this aspect.

For caravans or chalets in countryside areas, visual impact and access arrangements will be important considerations. Proposals must demonstrate what landscaping measures will be put in place to assist in integrating the site into its rural setting, in addition to providing for on-site amenity within the layout. Rigid, formal arrangements should be avoided, with stances/pitches separated to provide discrete, screened locations.

Provision within sites for touring caravans and tents will be encouraged.

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 E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

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

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

Policy E8: Coastal Protection Zone

Development proposals within the Coastal Protection Zone (CPZ), as identified on the proposals map, must not prejudice the objectives of the CPZ or the Water Framework Directive and will be refused except:

- a) where there is an existing use,
- b) it is an appropriate extension or change of use to existing buildings, or replacement of existing buildings,
- c) for low intensity recreational or tourist use e.g. golf courses, driving ranges, sports fields
- d) for uses directly related to agriculture, forestry and fishing.

Proposals must not prejudice the objectives of the CPZ or adversely affect the ecological, geomorphological or landscape importance of the area.

Development will not be permitted on any parts of the coast that are identified as being at risk of flooding or erosion.

Policy BE1: Scheduled Monuments and National Designations

National Designations

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

Local Designations

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

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

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

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

EP4: Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

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 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 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.

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 E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

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

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

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

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

National designations

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

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

Policy ED7: Rural Business Proposals

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

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

Policy E2: Local Nature Conservation Sites and Biodiversity

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

- a) local public benefits clearly outweigh the nature conservation value of the site, and

- b) there is a specific locational requirement for the development

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

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

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

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.

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places

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

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

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

b) Development proposals will not be supported where they:

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

c) Harbours.

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

d) Developer Obligations.

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES.

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
 - h) Existing stone walls on buildings and boundaries must be retained.
 - i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain
- (ii) **Transportation**
- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
 - b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
 - c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
 - d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
 - e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
 - f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
 - g) The road and house layout in urban development should allow for communal refuse

collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

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

DP8 TOURISM FACILITIES & ACCOMMODATION.

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

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

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

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

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

EP1 NATURAL HERITAGE DESIGNATIONS.

a) Natura 2000 designations.

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

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

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

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

b) National designations.

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

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

e) Other protected species.

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

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

EP2 BIODIVERSITY

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

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

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

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

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

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.

i) Special Landscape Areas (SLA's).

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

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

- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);

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

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

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

ii) Landscape Character.

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

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

EP7 FORESTRY, WOODLANDS AND TREES.

a) Forestry.

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

b) Woodlands.

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

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

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable. Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

c) Trees and Tree Preservation Orders.

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

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, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

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

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 SUSDS 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 SUSDS 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 SUSDS features. On completion of SUSDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of SUSDS 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.

APPENDIX 2

EC Directive 92/43/EEC: The Conservation of Natural Habitats and of Wild Flora and Fauna (“The Habitats Directive”)

Conservation (Natural Habitats, &c.) Regulations 1994 (“The Habitats Regulations”) Background

Under Regulation 44 of the Habitats Regulations certain activities which normally constitute an offence against European Protected Species (EPS) can be carried out legally under a licence from Scottish Natural Heritage (SNH).

Decisions made by SNH, as the licensing authority, must be fully compliant with the Habitats Regulations and the EC Directive. However, it is essential that planning permission is not granted without the Council, as Planning Authority having first satisfied itself that the proposed development will not impact adversely on any European Protected Species on the site, and that the “tests” necessary for any eventual grant of a licence are likely to be met. To do otherwise would be to risk breaching the requirements of the Directive/Regulations, and present a real danger that the developer of the site would be unable to make practical use of the planning permission which had been granted because no Regulation 44 licence would be forthcoming: a situation which is in the interests of no-one.

Before any licence can be issued (and planning permission can be granted) three “tests” must be satisfied as set out below.

Consideration of requirement for a licence

Bats are a European Protected Species. In this case, a licence is required following site investigations:

A bat roost assessment on the remains of Millie Bothy undertaken by an ecological specialist has confirmed the presence of a single pipistrelle bat roosting in the stonework. This together with mitigation proposals undertaken by the specialist has been submitted to address the abovementioned legal obligations. This has been reviewed by Scottish Natural Heritage, which has also confirmed the requirement for a licence from the Licensing Section of Scottish Natural Heritage. As part of this license determination process the Council as competent authority is required to assess the application against the following three tests and to satisfy itself that all three can be met prior to granting permission:

Test 1 - Licensable purpose (justification for preserving public health, public safety and public interest): The proposal involving the renovation of Millie Bothy to create an office / art gallery will not result in adverse impacts upon public health, safety or interest. Test 1 is met.

Test 2 - No satisfactory alternative: The renovation works to Millie Bothy are required to facilitate viable development of the site. Appropriate mitigation as detailed within the bat roost assessment will be incorporated into the development including timing of works (optimal for bats) and at least two Schwegler 1FR bat tubes being installed within the fabric of the southern gable end. Test 2 is complied with.

Test 3 - Favourable Conservation Status (action will not be detrimental to the maintenance of the EPS population): Scottish Natural Heritage has reviewed the submitted bat roost

assessment (which includes mitigation measures) and is satisfied that there will be no negative overall effect on this particular bat species population at local level. As recommended, a condition shall be attached to the planning consent (if permitted) requiring full adherence with the recommendations detailed within the assessment. Test 3 is complied with.

Informative advice outlining legislative requirements and legal obligations in relation to nesting birds shall also be attached.

APPENDIX 3

Habitats Regulations Appraisal (HRA) proforma

1. PROPOSAL DETAILS

1a. Proposal title

Restore and convert existing Millie bothy to office and erect 8 no self-catering holiday units at

1b. Details of proposal

Restore and convert the existing bothy to a office / art gallery and erect 8 no self-catering holiday units

2. PROTECTED AREAS

2a. Name of Natura site

Name of component SSSI if relevant

Moray Firth SAC

2b. European qualifying interest(s)

Moray Firth SAC

Bottlenose Dolphins and Subtidal Sandbanks

3. HABITATS REGULATIONS APPRAISAL (HRA) - STAGES

3a. Is the proposal directly connected with or necessary to conservation management of the site?

No

3b. Is the operation likely to have a significant effect on the qualifying interest?

Bottlenose Dolphins - Yes

Subtidal Sandbanks - No

3c. Appraisal of the implications for the site in view of the site's conservation objectives (Appropriate Assessment).

APPROPRIATE ASSESSMENT for Moray Firth SAC

Conservation objective (CO)	Assessment
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<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained</p>	<ul style="list-style-type: none"> • Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC depend, will not be adversely affected. • The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark. • This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations. • Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.
<p>And to ensure for the qualifying species that the following are maintained in the long term:</p>	
<p>Population of the species as a viable component of the site</p>	<ul style="list-style-type: none"> • The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark. • This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations. • Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.
<p>Distribution of the species within site</p>	<ul style="list-style-type: none"> • The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark. • This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations. • Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.
<p>Distribution and extent of habitats supporting the species</p>	<ul style="list-style-type: none"> • Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC depend, will not be adversely affected.
<p>Structure, function and supporting processes of habitats supporting the</p>	<ul style="list-style-type: none"> • Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC depend, will not be

species	adversely affected.
No significant disturbance of the species	<ul style="list-style-type: none"> • The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark. • This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations. • Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.
<p>Conclusion of Appropriate Assessment: - <u>Can it be ascertained that the proposal will not adversely affect the integrity of the sites?</u></p> <p>Yes.</p>	

4. IS ADDITIONAL MITIGATION REQUIRED TO AVOID ADVERSE IMPACTS?

<p>Yes.</p> <p>There is no likely significant effect on the sub subtidal sandbanks, therefore no mitigation required.</p> <p>There is no impact on the disturbing of habitats given the mitigation measures proposed for dolphins. As this is an ongoing mitigation practice while water is being abstracted the answer to this question is affirmative.</p>

6. CONCLUSION

<ul style="list-style-type: none"> • Subject to site staff using binoculars to search the area for the presence of dolphins and operations being halted if any are seen when the extraction pipe is in use, the proposal will not adversely affect the integrity of the SAC.
