

20/00781/APP
29th June 2020

**Proposed residential development (100% affordable)
with associated access infrastructure landscaping and
miscellaneous works at Spynie Hospital Duffus Road
Elgin Moray
for Moray Council**

Comments:

- The application is on a housing site designated for 50 houses within the Development Plan.
- The application was advertised for neighbour notification purposes.
- 46 representations received.

Procedure:

- Completion of a legal agreement regarding developer obligations relating to healthcare prior to issue of consent.

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

Conditions/Reasons

1. No development shall commence (other than those works required to further investigate and remediate contamination on the site) until:
 - (i) A report of assessment of contamination on the previously inaccessible area in the northeast of the site has been submitted to the Council as Planning Authority. The assessment should be undertaken by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', in accordance with a sampling strategy previously submitted to and accepted by the Council. The report shall include details of how identified contamination will be dealt with during subsequent construction works and details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use.
 - (ii) Written confirmation has been issued by the Council as Planning Authority that all remedial measures to deal with contamination on the site have been implemented and completed in accordance with the details as specified in the agreed final version of the applicant's remediation plan, dated 10 May 2021, along with additional remedial measures identified as a result of the additional investigations in the northeast of the site.

Reason: To ensure that the site, including areas not previously investigated, is suitable for the proposed use, and that risks posed by on-site contamination to the wider environment and to the users of neighbouring land are appropriately managed.

2. For the avoidance of doubt all units hereby approved be used for affordable housing purposes only in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord (e.g. housing association or similar) to enable the long term delivery of affordable housing on this site; and no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable and specialist accommodation hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority.

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

Reason: To ensure an acceptable form of development in terms of the required provision and delivery of the affordable housing accommodation proposed for this site wherein the benefits of such provision are passed on to serve the community in future years.

3. All drainage proposals shall be as detailed on approved plan GC22387-96-001 C. All measures for the management of surface water shall be implemented in full prior to the first occupation of any residential unit hereby approved and thereafter shall be maintained in accordance with the submitted SUDS Maintenance Strategy SPY-B&B-XX-XX-RP-C-002 dated 23 March 2021.

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

4. No development shall commence until details confirming the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each unit) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: To ensure the residential units hereby approved are served by appropriate high speed internet connections

5. No development shall commence on the development hereby approved until a detailed Art Strategy (including street naming strategy) has been submitted to and approved by the Council as Planning Authority. This shall reflect the principles set out in the submitted document Spynie Integrated Public Art Strategy and include details of how the art will be delivered and a timetable for delivery and details of maintenance arrangements. Thereafter the strategy shall be implemented in accordance with the phasing details contained within it.

Reason: To ensure that public art is appropriately incorporated into the development.

6. No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Council, as Planning Authority. The CEMP shall address all environmental management issues related to the development including arrangements in the event of unforeseen protected species being encountered on site which shall be in line with the measures set out in section 6.14 of the submitted document Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey Report. Thereafter, the development shall be implemented in accordance with the approved CEMP details.

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

7. No development shall commence until a pre-construction (no more than 6 months prior to the start of works) badger survey, in line with the recommendations contained within the submitted report entitled 'Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified and a species protection plan. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

8. No development shall commence until a pre-construction (no more than 6 months prior to the start of works) red squirrel survey, in line with the recommendations contained within the submitted report entitled 'Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

9. No development shall commence until a pre-construction bat survey (no more than 3 months prior to the start of works), in line with the recommendations contained within the submitted report entitled 'Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020, has been undertaken and a report of survey has been submitted to, and approved in writing by the Council, as Planning Authority. The survey shall include mitigation measures

where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

10. No development shall commence until details of the exact location of all bat and bird boxes proposed on approved drawing 10948-LD-PLN-002 have been submitted to and agreed in writing with the planning authority. Thereafter all bat and bird boxes shall be installed prior to the first occupation of any unit hereby approved.

Reason: To ensure that the proposed biodiversity enhancement measures are timeously provided.

11. No development shall commence until details of hedgehog highways between plots have been submitted to and agreed in writing by the Planning Authority. Thereafter the approved details shall be implemented prior to the first occupation of any unit hereby approved.

Reason: To ensure sufficient biodiversity enhancement measures.

12. No development shall commence until the tree protection measures detailed on the approved plan 0948-LD-PLN-100 revision G have been implemented in full.

Reason: In order to ensure adequate measures to protect retained trees are in place.

13. Notwithstanding the submitted play strategy no development shall commence until revised details for the play park have been provided to include details of the surfacing of the play park which shall be suitable for those with physical disabilities and the inclusion of play equipment and benches for those with physical and sensory disabilities. The equipped play area shall be provided in accordance with the approved details and be available for use prior to the occupation of any of the houses hereby approved. Thereafter the play area shall be maintained in accordance with the approved maintenance arrangements.

Reason: To ensure that the play park makes adequate provision for all abilities play and ensure the adequate provision of an equipped play area and its future maintenance.

14. No development shall commence until an implementation plan setting out the timings of provision of each element of the proposed landscaping and open space has been submitted to and approved in writing by the planning authority. Thereafter the development shall not proceed except in accordance with the agreed plan. All landscaping shall be in accordance with approved drawing 10948-LD-PLN-001 D and submitted documents Spynie Residential Development Soft Landscape Specification and Planting Schedules REF: 10948-LD-DOC-001

date March 2022 and Spynie Hospital Redevelopment Moray Council Landscape Materials and Planting Palette 10948-LD-REP-001 version 2 date March 2002. For the avoidance of doubt the implementation plan must provide for all seeding and planting to be carried out no later than the first planting season following the completion of development.

Reason: To ensure a high standard of landscaping is proposed and timeously provided.

15. No development shall commence until details including materials, design and surface density of an 1.8m high acoustic fence as described on page 14 of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association have been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Authority. Thereafter the approved fence shall be provided as follows:
- Plot 1 along the southern and western boundary of the plot
 - Plot 2 along the western boundary of the plot
 - Plots 28 - 34 along the southern boundary of each plot

The fence shall be provided prior to the first occupation of the unit on the plot to which the fence is provided and retained in perpetuity.

Reason: To prevent noise nuisance.

16. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise, dust and artificial lighting. Thereafter the development will be carried out in accordance with the agreed plan at all times.

Reason: To minimise the impact of construction works upon the amenity of the surrounding area including any neighbouring residential property.

17. Notwithstanding the submitted Road Safety Audit and proposed works to widen the B9012 and pedestrian refuge crossing (which are not accepted). No development shall commence until the details have been submitted for approval by the Planning Authority in consultation with the Roads Authority:
- Details (Plans scale 1:500 min) for Pedestrian and Cycle crossing facilities on the B9012 to address connectivity for access to the cyclepath on the western side of the B9012 and provide access to the bus stops.
 - Details (Plans scale 1:500 min) for a 2 metre wide footpath on the north side of the B9012 connecting the footway between the proposed site access onto the B9012 and the existing cyclepath from Duffus Heights to the northwest.
 - A Road Safety Audit (Stage 2) for the proposed site layout and any offsite works to the B9012 and revisions to the proposals to address issues raised.

Thereafter, unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority, the development shall be completed in accordance with the approved details.

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

18. No development shall commence until the following details have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority:
- Details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit for each house.
 - Details (product specification) for the proposed rapid charging unit (min 22Kw) to be provided for the flats.

Thereafter the EV charging infrastructure for the houses and flats shall be provided in accordance with the approved drawing and details prior to the first occupation of any house or flat which it is associated with.

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

19. No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to confirm the arrangements for future adoption/vesting by an in-perpetuity regulatory body, of the maintenance and management of the roads SUDs system excluding any other parts of the SUDs system to be identified by the Roads Authority which is to be maintained by or factored on behalf of the developer or their successors.

Reason: To ensure the management and maintenance of effective roads drainage and surface water management infrastructure proposed for the site.

20. No development shall commence until details have been submitted to confirm the maintenance/ factoring arrangements for all landscaped areas within or adjacent to the public road (including footways and cycle paths, verges, and service strips but excluding residential plot boundaries). Thereafter the landscaping shall be maintained in accordance with the approved arrangements and it must be ensured that landscaping will not interfere with the function of the public road or cause a hazard to road users.

Reason: In the interests of road safety and the provision of details currently lacking from the submission.

21. No development shall commence in relation to Plots 3-7 or 31-34 until details have been submitted to and approval in writing by the Planning Authority in consultation with the Roads Authority for the proposed secure and enclosed cycle

storage to provide a minimum of 1 cycle space per flat).

Thereafter, no flat shall be occupied until the cycle storage associated with it has been provided and made available for use and the cycle storage shall be retained and maintained in perpetuity as cycle parking for use in conjunction with the flat.

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

22. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- duration of works;
- construction programme;
- anticipated schedule for delivery of materials and plant;
- full details of any temporary construction access;
- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

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

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

23. A visibility splay 2.5m x 90m in both directions shall be provided at the site access onto the B9012 and thereafter maintained clear of any obstruction over 0.6m in height measured from the carriageway.

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

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

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

25. Parking provision shall be provided in accordance with Parking Standards of the Moray Local Development Plan 2020 prior to the first occupation of the house or flat which it is associated with. Thereafter the parking provision shall be retained and available for use for that purpose unless otherwise agreed in writing by the Planning Authority.

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

26. None of the units hereby approved shall be occupied until the roads and paths connecting it to the B9012 and the works to provide the pedestrian and cycle crossing(s) on the B9012 in accordance with the approved details, have been completed and opened to the public.

Reason: In the interests of an acceptable form of development and the provision of safe access for all road users in the interests of road safety.

27. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place in the service strips along plot frontages and no additional planting shall take place within these areas.

Reason: In order to retain effective control over future development within the application site so that it is carefully managed and to ensure effective roads drainage infrastructure is provided and safeguarded.

28. The maintenance arrangements for the landscaping and play area contained in chapter 7 of the submitted document Spynie Residential Development Soft Landscape Specification and Planting Schedules shall be implemented in full.

Reason: To ensure that these areas are properly maintained in a manner which will not adversely affect the development or amenity and character of the area

29. All measures in relation to ground nesting birds contained in paragraphs 6.10-6.13 of the Spynie Hospital Redevelopment Extended Phase 1 Habitat Survey' by dated August 2020 shall be adhered to at all times.

Reason: To ensure that ground nesting birds and their nests are protected.

30. No trees other than those identified for removal on the approved plan 10948-LD-PLN-100 revision G shall be removed without the prior written approval of the Council, as Planning Authority.

Reason: In order to ensure tree removal is adequately controlled.

31. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300

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

Reason - To minimise the impact of construction works upon the amenity of the surrounding area including any neighbouring residential property.

32. The units approved on plots 3 to 8 and 31 to 34 shall have acoustic trickle ventilation provided in first floor living apartments windows, which should achieve an acoustic performance of at least $D_{n,e,w}$ 29 dB Ctr -1 dB, as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

Reason: To prevent noise nuisance.

33. The units approved on plots 1, 2 and 31 to 34 shall have acoustic trickle ventilation provided in first floor bedroom windows, which should achieve an acoustic performance of at least $D_{n,e,w}$ 26 dB Ctr -1 dB, as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

Reason: To prevent noise nuisance.

34. The units approved on plots 3 to 8 and 31 to 34 shall have acoustic thermal double-glazing units (6mm pane/12mm air gap/4mm pane) provided in first floor living apartments windows, which should achieve an acoustic performance of at least $R_w + C_{tr} = 28$ dB, as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

Reason: To prevent noise nuisance.

35. The units approved on Plots 1,2 and 31 to 34 shall have acoustic thermal double-glazing units (6mm pane/12mm air gap/4mm pane) provided in first floor bedroom windows, which should achieve an acoustic performance of at least $D_{n,e,w}$ 26 dB Ctr -1 dB, as identified in "Table 6 Glazing/Ventilation Configuration" of the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, Revision 3 dated 31/05/2022, Project number: 60620771 and titled "Former Spynie Hospital. Planning Noise Report. Moray Council and Grampian Housing Association."

Reason: To prevent noise nuisance.

Reason(s) for Decision

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

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

List of Informatives:

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER
has commented that:

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

This development is subject to a legal agreement in regard to arrangements for payment of developer obligations to address the impact of the development upon healthcare.

THE TRANSPORTATION SECTION has commented that:

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

Additional Road Safety Audit requirements shall be determined through the Road construction Consent process as required.

The proposals indicate signage for 'Home Zones' the requirements for which are covered under The Home Zones (Scotland) Regulations 2002. The requirements for this or any design changes required shall be agreed as part of the Roads Construction Consent.

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road.

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

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

If any street furniture will need to be repositioned or any existing roadside ditch requires a pipe or culvert these works shall be at the expense of the developer. Advice on these matters can be obtained by e-mailing transport.develop@moray.gov.uk

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

Private Roads - A responsible party, constituting the road manager, must be nominated for a private road and this information included within the National Gazetteer through the Scottish Road Works Register (SRWR).

The developer shall ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway.

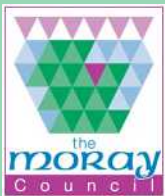
No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
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Reference No. Version No.	Title/Description
GC22387-95-002	Road construction details
10948-LD-DET-604	Tree planted swales
GC22387-95-001	Visibility splay
10948-LD-DET-602	Raised Table Isometric
	Location plan
10948-LD-PLN-002	Landscape bio-diversity plan
60620771-SKE-C-SPN-1001 B	Proposed refuse island road layout
10948-LD-DET-603	Fencing details
GA-K-11	Type K detached
GA-F-20	Type F semi detached
GC22387-95-003 B	Road layout
GC22387-95-004 B	Road adoption
GC22387-95-005 B	Proposed utility layout
PL_121B	Parking
PL_120B	Street naming
PL_122A	EV charging point
PL_101E	Existing and proposed site sections

PL_101M	Existing and proposed site sections
PL_101M	Proposed site block plan
TY-B-B	Type B
TY-AA-B	Type AA
TY-H-B	Type H
TY-JA-B	Type JA
TY-JB-A	Type JB
GC22387_96_002	Drainage typical details sheet 1
GC22387-96-003 A	Drainage typical details sheet 2
10948-LD-PLN-250 C	Boundary masterplan
GC22387-95-014 B	Car tracking
GC22387-96-001 C	Proposed drainage layout
GC22387-95-011 C	Fire Appliance tracking - 2 of 2
GC22387-95-010 C	Fire Appliance Tracking - 1 of 2
10948_LD_PLN_001 D	Landscape masterplan
GC22387-95-012 C	Refuse vehicle tracking - 1 of 2
GC22387-95-013	Refuse vehicle tracking - 2 of 2
10948-LD-PLN-100 F	Tree protection plan
10948-LD-DET-600	Typical Detail - sheet 1
10948-LD-DET-601	Typical details - sheet 2
GA-AA-20 A	Type AA (semi-detached)
EL_01 E	Street elevation
EL_SK1 C	Material application key
GA-B-20 A	Type B Semi detached
GA-B-30 B	Type B Semi-detached
GA-H-20 A	Type H Semi-detached
GA-HJA-10 A	Type HJA Semi-detached
GA-H-60 A	Type H Semi-detached north variant
GA-JA-10 A	Type JA Detached
GA-JA-20	Type JA Semi-detached
GA-JB-20	Type JB Semi-detached



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

20/00781/APP

Site Address:

Spynie Hospital Duffus Road
Elgin

Applicant Name:

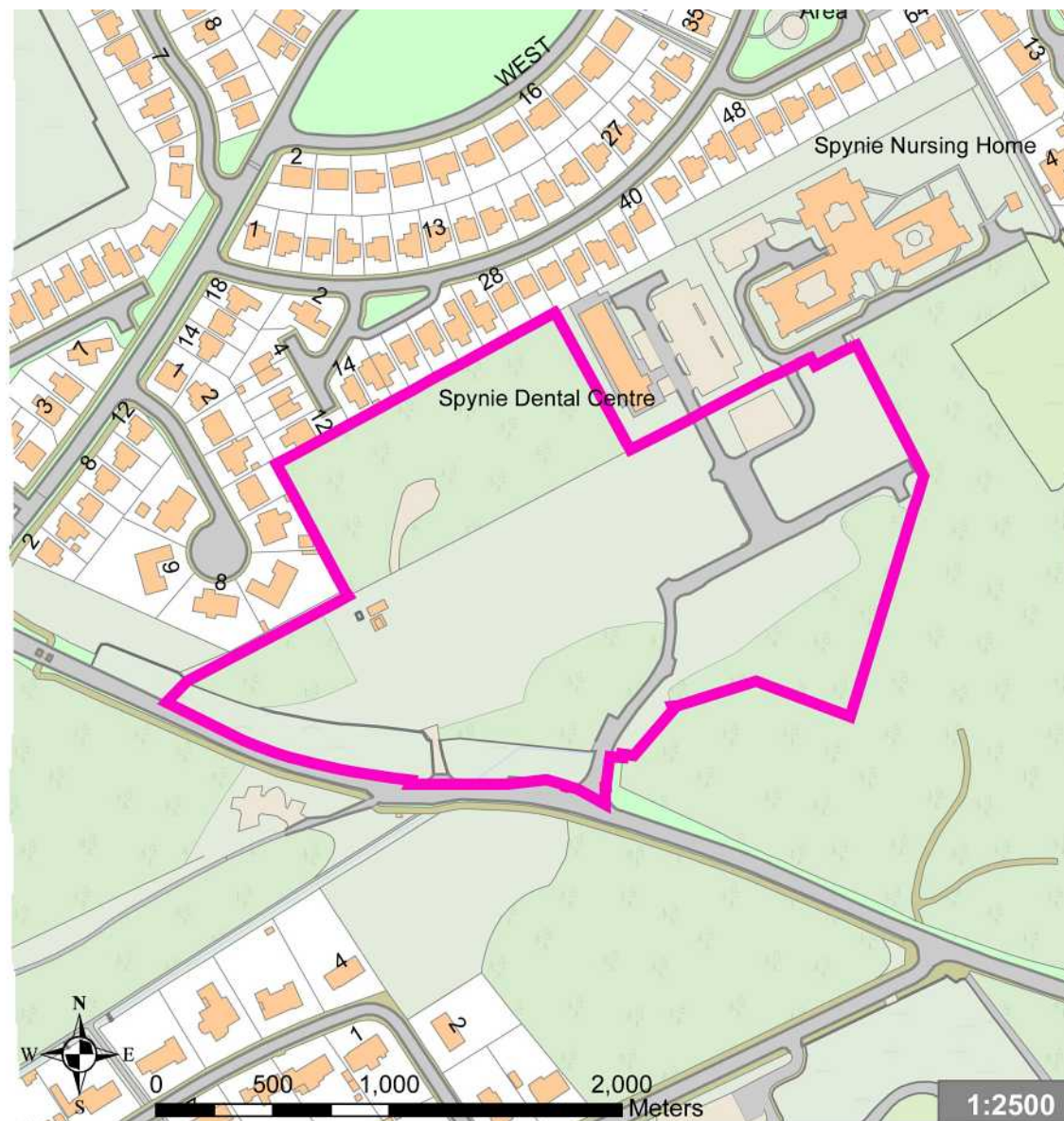
Moray Council

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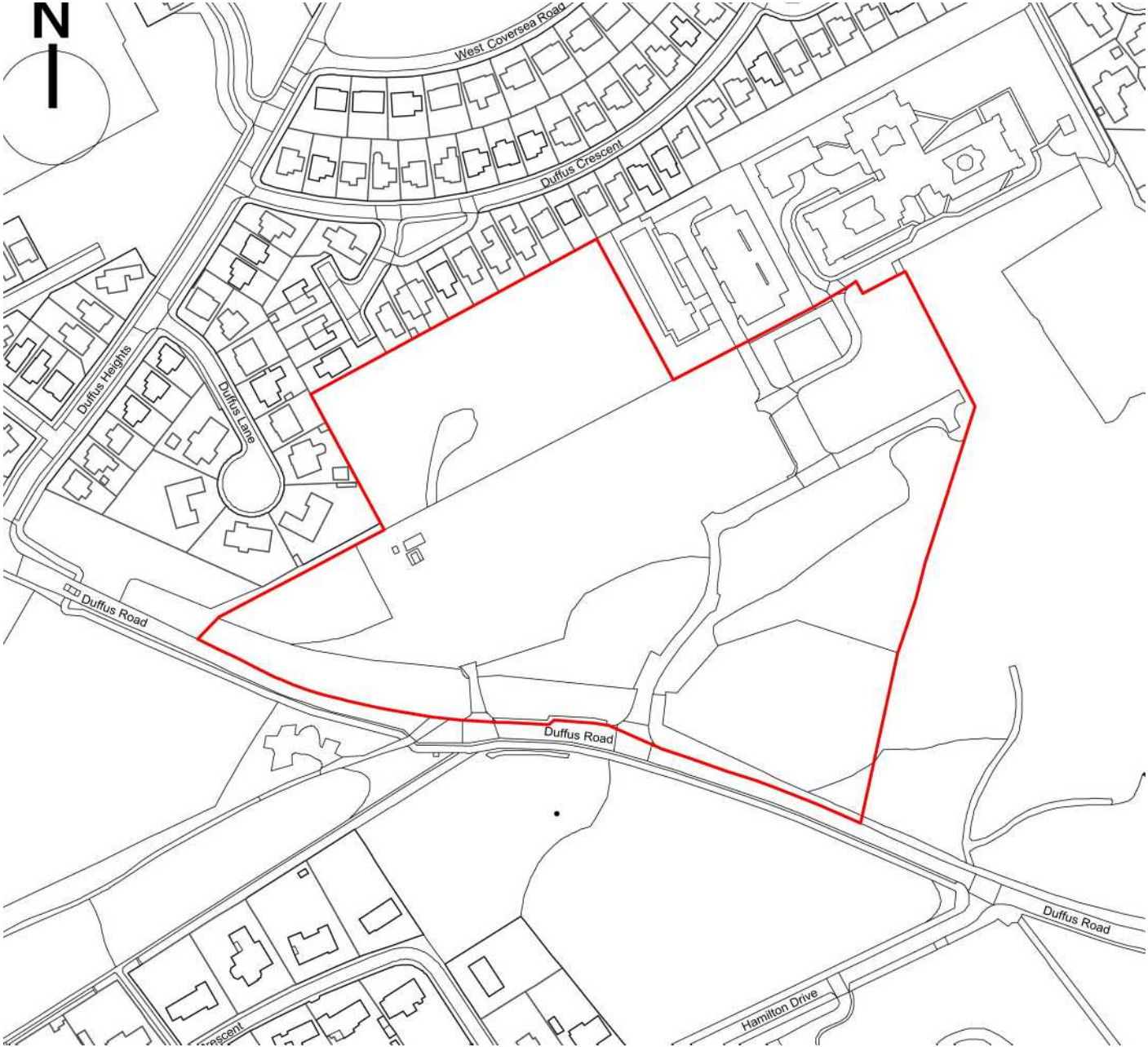
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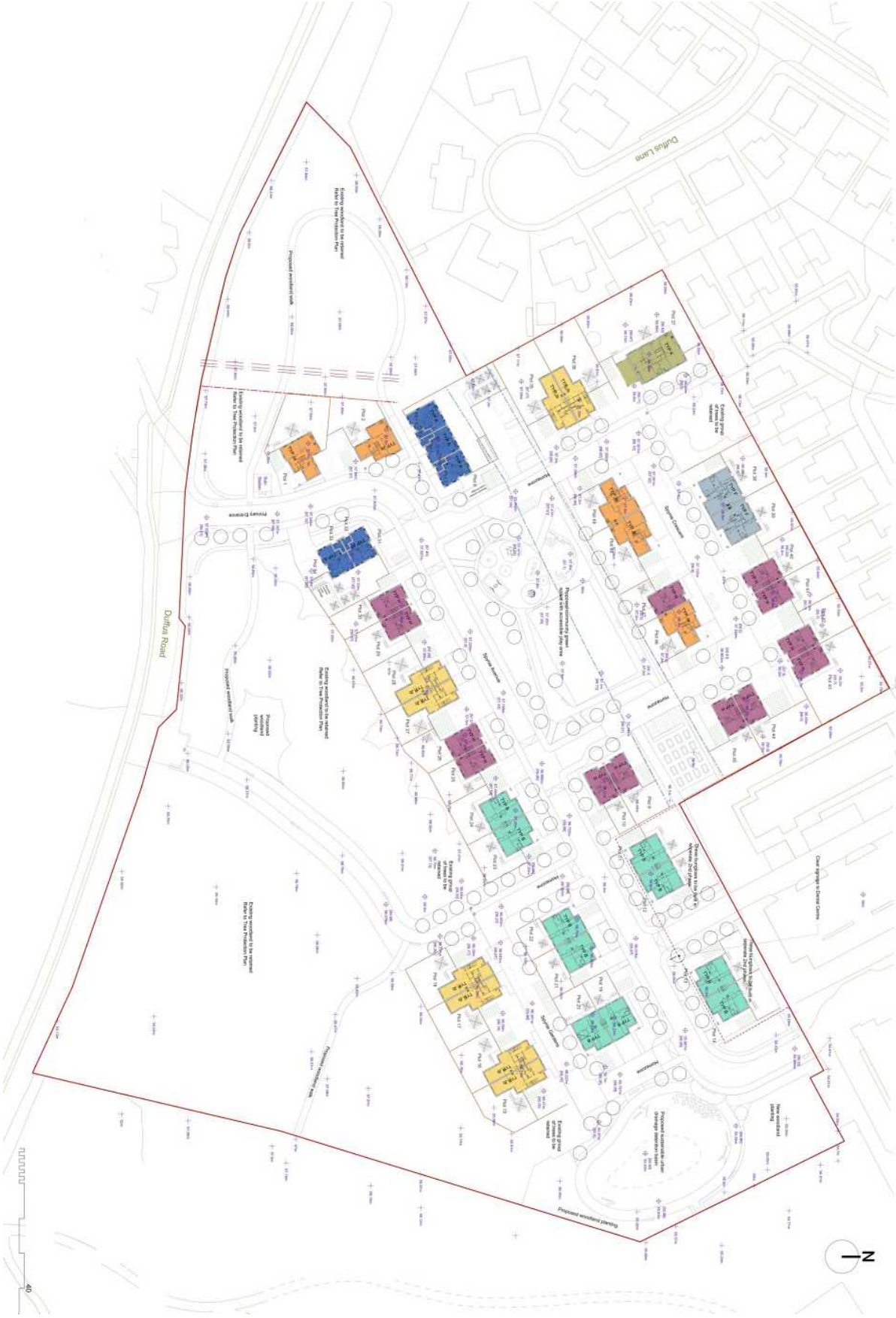
Location Plan



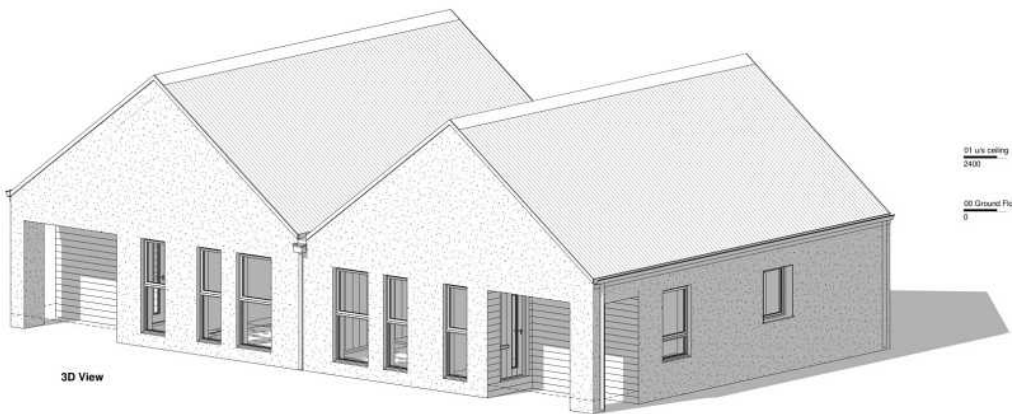
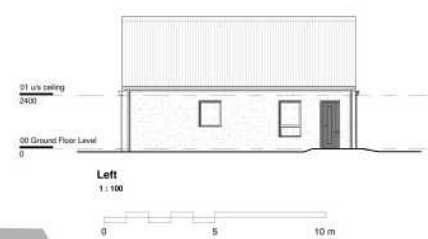
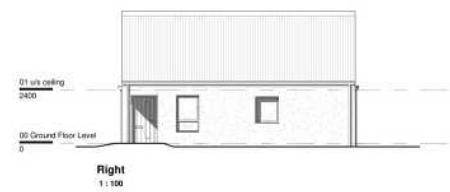
Site Location



Site plan



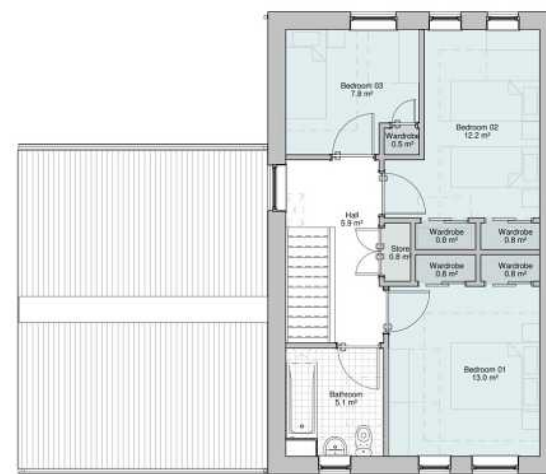
Type B semi-detached



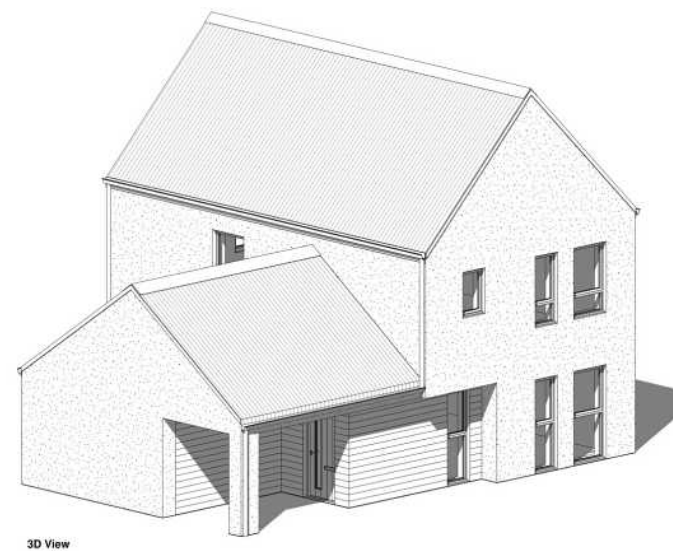
Type JA detached



Ground Floor Plan
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0 2.5 5 m

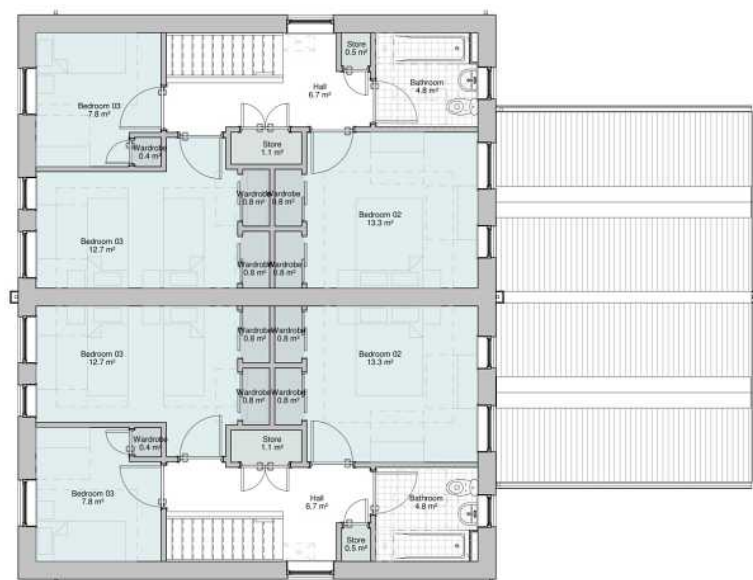
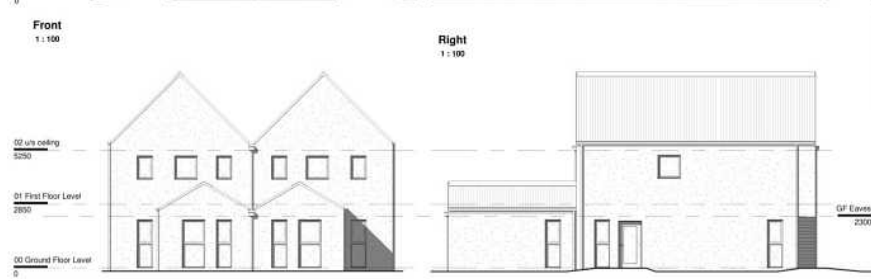
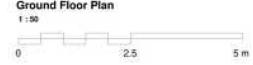
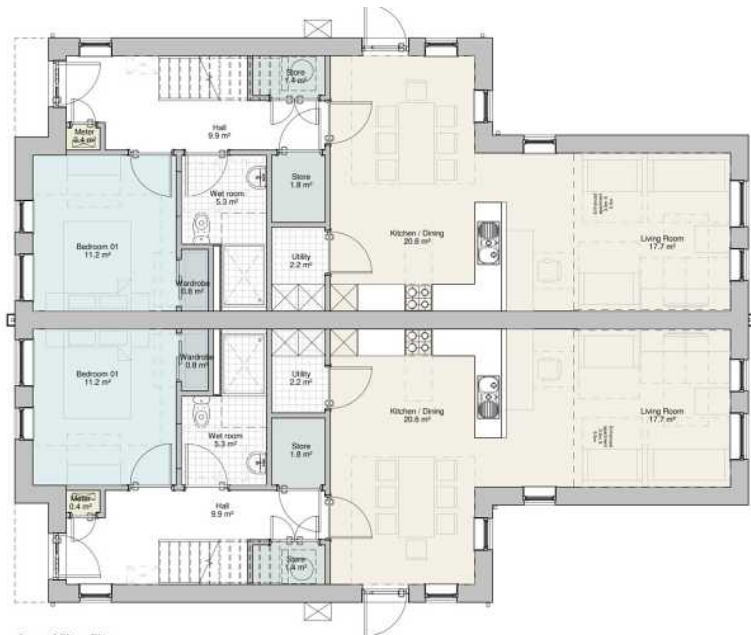


First Floor Plan
1:50



3D View

Type JB detached



First Floor Plan 1:50

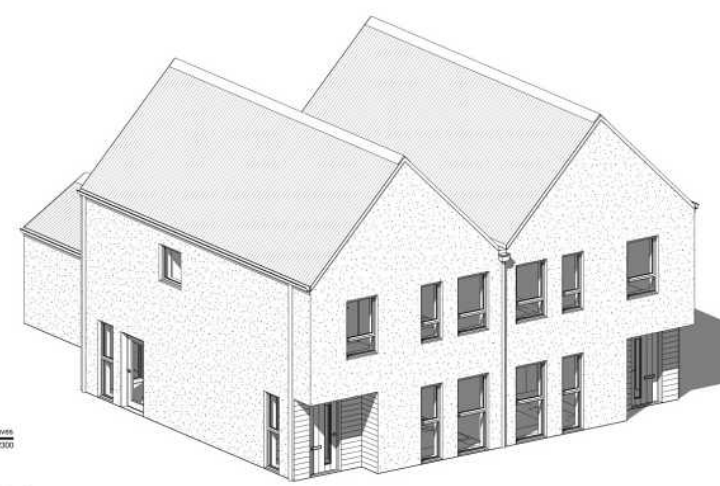


Photo location plan



Map Description: a Description of a Moray Council Map

Scale: 1:1,604 @ A4



Photo 1



Photo 2



Photo 3



Photo 4



PLANNING APPLICATION: 20/00781/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

1. **THE PROPOSAL**

- This application seeks planning permission for 39 houses and 10 flats along with associated access, parking and surface water drainage. A play park, kickabout pitch, footpaths and landscaping are also proposed.
- All the proposed units will be affordable housing.
- One of two existing vehicular accesses will be upgraded to serve the site and the other will be made into a cycle path.
- Seven house types are proposed - Type A are 1 bedroom flats arranged in two storey blocks, Type B are 2 bedroom bungalows, Type H (and north variant) are 3 bed two storey houses, Type Ja is a 4 bedroom two storey house, Type Jb is a 4 bedroom two storey house, Type F is a 3 bedroom bungalow and Type K is a 4 bedroom bungalow.
- Three character areas are proposed – north, Main Avenue and south. The north and Main Avenue areas will have different colour renders while houses in the south character area will be timber clad. Each area will have different coloured detailing at the entrance to houses. All the houses will have corrugated metal roofs.
- Key buildings are identified throughout the site. These buildings will be timber clad with red metal roofs and distinctive yellow entrances.
- The development will be connected to the public sewer and water supply.
- There are a significant number of existing trees on site. The mature woodland in the south and western part of the site is to be largely retained with some tree removal and tree removal is proposed across the site. In total 413 trees will be removed and replaced with 740 trees will be planted on site.
- A detailed landscaping plan has been provided. This proposes additional planting in the existing woodland area, planting throughout the site and the creation of a central green space and growing area for community use.
- The application is supported by a Pre-application Consultation (PAC) report, Design and Access Statement, Drainage Strategy, Landscape and Visual Appraisal. Transport Assessment, Road Safety Audit, Planning Statement, Placemaking Statement, Contaminated Land Report and Remediation Method Statement, Extended Phase 1 Habitat Survey and Addendum, Sustainable Urban Drainage System (SUDS) Maintenance Strategy, Tree Schedule, Tree Survey Report, Tree Bat Roost Potential Statement, Tree Retention Statement, Public Art Strategy, Landscaping Specifications and Planting Schedule, Landscape Materials schedule and Noise Impact Assessment,

2. THE SITE

- The site is covered by the Elgin R14 Spynie Hospital designation within the Moray.
- Local Development Plan 2020 which has an indicative capacity of 50 residential units.
- The site extends to 4.65ha and is the site of the former Spynie Hospital in Elgin.
- The site sits to the north of Duffus Road. There are two existing accesses. One is to be upgraded to provide access to the development and the existing facilities beyond and one is to be converted into a cycle path.
- There are existing houses to the north and north west and a care home and dental practice to the north east.
- There is open land to the east.
- Immediately to the south west of the application site there is a specialist housing.
- The main part of the site largely flat but there is a raised area in the northern part of the site.
- There are existing trees at the entrance to the site and along the south west and south east boundaries and in the northern portion of the site.
- The trees in the far east of the site are on the National Forestry Inventory. The land immediately to the east forms part of the ENV6 designation the MLDP 2020.
- Pockets of areas at risk of surface water flooding are identified across the site.

3. HISTORY

20/00211/SCN Proposed residential development on OPP6 – Environmental Impact Assessment procedures not required.

4. POLICY - SEE APPENDIX

5. ADVERTISEMENTS

5.1 Advertised for neighbour notification purposes.

6. CONSULTATIONS

Elgin Community Council: Traffic is a known issue on Duffus Road. Parking threatens to impede traffic flow at times. We note that the Local Development Plan includes junction improvements at Morriston Road and North Street Bishopmill. Please clarify the effect this development will have on those junctions and whether an appropriate developer's contribution is being made from the development to those junction improvement.

Flooding is a concern and is not sufficiently addressed in the application. The concerns raised by the Moray Flood Prevention Team must be addressed to their satisfaction and the FPT must be allowed to act fully independently. We have been made aware that there are springs in the area. We would like to see this fully resolved before the application is determined.

Contaminated land must also be resolved to the independent satisfaction of the relevant team.

Overlooking has been raised by members of the community and is a common concern that we hear so must be addressed sympathetically in the design to the satisfaction of the affected neighbours.

In our response to the Local Plan we raised a concern about the loss of NHS estate and the future of health provision locations in Elgin particularly as Elgin is growing massively. We also here evidence from time to time of attempts to erode the local NHS presence in favour of larger centres.

In our response to the local plan we were also interested in the integration of affordable housing and social housing with other types of tenure. Can we be advised on why this development does not do that ie 100% affordable housing when Moray Council Policy is for a percentage.

N.B: The community council was re-consulted on the amended proposals on 20 April 2022 but no response has been received.

PO response: A Transport Assessment has been provided which acknowledges the impact on the Morriston Road/Brumley Brae junction (PM only) and Morriston Road/Duffus Road (B9012) junction (AM only). An assessment of the junction capacities at these junctions was undertaken which demonstrated that these junctions would be anticipated to operate within capacity for the future year with the completed development. The Transportation Manager advises that no mitigation is required at these junctions for the current application.

Following the submission of further information the Flood Risk Management Team have no objection to the proposal.

A condition is recommended to ensure that the contamination of the site is fully investigated and remediated as appropriate.

The concerns of neighbours regarding overlooking are recognised and are addressed below. Some changes to the plans have been made including the removal of some upper floor windows.

The concerns regarding the provision of NHS services is noted. Spynie Hospital was demolished before the application was submitted. Developer Obligations in relation to healthcare are sought.

Policy DP2 requires that all housing developments provide a proportion of affordable housing. The current proposal is for a fully affordable housing development therefore it meets the terms of the policy. Where a mix of tenures

are present policy PP1 (c) (iii) requires tenure integration but that does not apply in this case.

Strategic Planning & Delivery: No objection. The proposal has been considered against policies PP1, PP3, EP2, EP5, EP7, DP1, DP2 and is deemed to comply. In summary;

- The proposal scored “green” in all categories in the QA representing the full compliance with PP1;
- The layout provides distinct character areas with differentiation being provided through both materials, colours, and house design. A number of key buildings have also been provided across the site to add to the visual interest and improve legibility;
- An attractive and functional area of open space will be provided which will provide a play area and include benches. It will be planted with variety of species to create attractive space and support biodiversity. The proposal scored over 75% in terms of the quality standard for Policy EP5;
- The layout has incorporated a number of measures to support and enhance biodiversity and connect into existing wildlife networks; and
- The applicant has endeavoured to retain as many existing trees as possible with the number of units being reduced to accommodate this.

Access Manager: No objection. Initially connection to the candidate core path to the north east (CP35) was sought along with two aspirational paths to the east formed. A safe crossing of Duffus Road is also required. The proposals now show connections to the east and the north west towards Duffus Crescent and north east in the direction of Roseisle Drive and Roseisle Place which is acceptable.

Archaeology: No objection.

Contaminated Land: No objection subject to a condition that potential contamination is fully investigated and remediated as appropriate.

Developer Obligations: Obligations in relation to healthcare are sought.

Education: No response at the time of writing this report.

Environmental Health: No objection subject to conditions to control construction noise, mitigated the impact of noise from Duffus Road and to secure the provision of a Construction Environmental Management Plan (CEMP).

Housing Strategy and Development Manager: No objection.

Moray Flood Risk Management: No objection following the submission of further information.

Transportation: No objection subject to conditions to requiring for details of the pedestrian crossing of the B9012, EV Charging, management of roads suds, maintenance of the landscaping areas next to the public road, cycle parking for the flats, visibility splay at the access and for individual houses, provision of a

construction traffic management plan, to secure parking provision and the removal of permitted development rights in service strips.

NatureScot: No objection.

Scottish Water: No objection.

SEPA: No objection subject to a condition to ensure that the proposed environmental enhancements are provided.

7. 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).

Mrs Lydia Simpson - 43 Duffus Crescent Elgin Moray IV30 5PY - O
Mrs Amelia Mccallion - 12 Duffus Place Elgin Moray IV30 5PB - O
Mrs Pauline Hamilton - 2 Duffus Crescent Elgin Moray IV30 5PY - O
Miss Joanne Milligan - 10 Kintrae Rise Elgin Moray IV30 5ND - O
Mrs Angela McConnell - 24 Birch Avenue Elgin Moray IV30 5NE - O
Gilly Mackay - 22 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Stewart Henderson - 18 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Kenny Simpson - 43 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Scott McCallion - 12 Duffus Place Elgin Moray IV30 5PB - O
Mr Peter Farley - O
Wendy Brash - O
Mrs Stephanie Bayliss - 11 Duffus Place Elgin Moray IV30 5PB - O
Mr Alan McConnell - 24 Birch Avenue Elgin Moray IV30 5NE - O
Mr Douglas Low - 4 Duffus Crescent Elgin IV30 5PY - O
Mr Kelvin Hirst - O
Mr John Vincent - 26 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Fraser Shaw - 44 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Robert Thain - 7 Roseisle Place Elgin Moray IV30 4NX - O
Mr Justin Morris - 17 Covesea Rise Elgin IV30 4PN - O
Ms Pauline Wheat - 10 Duffus Place Elgin Moray IV30 5PB - O
Mr Mark Booth - 50 Duffus Crescent Elgin Moray IV30 5PY - O
Ms Lorraine Pirrie - O
Ms Rebecca Ferguson - R
Mr Ryann Ferguson - R
Mrs Elizabeth Harrold - 6 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Richard Erker - 24 Duffus Crescent Elgin Moray IV30 5PY - O
Mrs Suzanne Russell - 22 Dunbar Gardens Elgin Moray IV30 5ZH - O
Mrs Shona Marnoch - 7 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Darryl Smith - 34 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Douglas Low - 4 Duffus Lane Elgin Moray IV30 5PD - O
Mrs Tracey Picksley - 5 Duffus Lane Elgin Moray IV30 5PD - O
Mr And Mrs Will - 6 Duffus Lane Elgin Moray IV30 5PD - O
Miss Lisa Stewart - 18 Duffus Crescent Elgin Moray IV30 5PY - O
Olivia Hirst - 20 Duffus Crescent Elgin Moray IV30 5PY - O

Mr Keith Paterson - 22 Duffus Crescent Elgin Moray IV30 5PY - O
Miss Emma Davidson - 24 Duffus Crescent Elgin Moray IV30 5PY - O
Mrs Shona Vincent - 26 Duffus Crescent Elgin Moray IV30 5PY - O
Mr David McLeod - 28 Duffus Crescent Elgin Moray IV30 5PY - O
Spynie Dental Centre - Dental Unit Spynie Hospital Duffus Road Elgin IV30 5PW - R
Dr Iain Bufton And Dr Laura Bufton - 12 Duffus Crescent Elgin Moray IV30 5PY - O
Mr Paul Woods - 10 Duffus Crescent Elgin Moray IV30 5PY - O
Amanda Proctor - O
Mrs Kirsty Joy - 12 Kintrae Rise Elgin Moray IV30 5ND – O

Issue: There are Council houses at Findrassie and affordable housing has already been provided at Hamilton Gardens.

Comment (PO): The Council's Housing Need and Demand Assessment highlights a significant requirement for affordable housing in Moray and providing affordable housing is a key priority for the Council. Each development must be considered on its own merits. Under the current local plan all developments must have at least 25% affordable housing or equivalent. The current proposal is a stand-alone scheme for affordable housing that will contribute towards meeting housing needs in Moray. It does not include part of the affordable housing 'quota' for any other development.

Issue: Affordable housing will result increased crime and anti-social behaviour.

Comment (PO): This is a generalisation and speculative comment. Crime and anti-social behaviour are matters for the Police and other relevant authorities.

Issue: Affordable housing should not be provided alongside private houses.

Comment (PO): This development will contribute towards meeting housing need in the area. Generally tenure integration is sought but in order to meet need some fully affordable developments are required. The location on a designated house site alongside established residential developments is considered to be a good location to provide this within the community.

Issue: Affordable housing should be mixed in and not provided in 'stand-alone' developments.

Comment (PO): Where possible a mix of tenures should be provided but in order to address housing need developments that are exclusively for affordable housing are required.

Issue: Terraced housing is not in keeping with the detached houses on neighbouring plots.

Comment (PO): A mix of house types is proposed including some detached properties. It must be recognised that there is a need for a range of house types and sizes and this development seeks to address that.

Issue: The number of units proposed is overdevelopment of the site and the density is too high.

Comment (PO): The original proposal was for 62 units this has now been reduced to 49. The indicative capacity of the site identified in the R14 designation is 50 units. This density of development is considered acceptable for this site with sufficient open space and green areas provided.

Issue: The style of the proposed houses is not in keeping with those built nearby.

Comment (PO): The proposed houses are not designed in a conventional suburban style but are based on traditional form and foot prints. A mix of styles contributes to greater character and the avoidance of 'anywhere' development. It is noted that a mix of styles is already present in Duffus Crescent to the north where different developers have been involved in bringing forward development over an extended period and styles have changed. Hamilton Gardens also hosts a diversity of house styles and materials.

Issue: The red roof is not in keeping with neighbouring developments.

Comment (PO): Red roofs are to be provided on key buildings throughout the development. This will provide distinctiveness and allow for orientation through the site where roofs will be finished in most grey sheeting. The red roofs reflect the colours of the surrounding landscape and finds some precedent in existing houses.

Issue: Two storey houses are not needed in Elgin.

Comment (PO): The housing mix reflects the range of needs identified in Moray.

Issue: Houses will be built on a raised plateau.

Comment (PO): The existing mound in the northern part of the site is to be removed as detailed on the section drawings.

Issue: Loss of privacy.

Comment (PO): A 1.8m fence will protect privacy of existing properties to the north and north west. A specific 'north variant' of the H type is now proposed which has no upper floor windows other than bathrooms on the northern elevation to prevent overlooking or loss of privacy to the north.

Issue: Inadequate distance between the proposed houses and existing properties.

Comment (PO): The Council has no specific guidance on separation distances and each case is judged on its own merits. The properties to the north are between 10m and 12m from the northern boundary with the exception of the corner plot (37) which is approximately 6m from its northern boundary. The distances between the houses varies between 16m and 23m as a number of the existing properties have had extensions to the rear. To the west distance between the proposed houses and the western boundary vary between 11m (due to the projection to the rear of plot 35 & 36) and 16m. It is noted that the house on plot 37 is further away from the existing house to the west than the existing house to the north is to the existing house to its west. The separation distances are acceptable in the context of an existing residential area.

Issue: Loss of natural light and overshadowing of existing houses immediately to the north and north-west.

Comment (PO): The relationship between the proposed houses to the north and west of the site and the existing houses is indicated on the submitted. The proposed houses vary between 16m and 20m from the houses to the north. The houses to the west are all more than 20m away from the proposed houses.

These houses are considered to be sufficiently separated from neighbouring houses to avoid any undue impact. Plot 37 which sits on the corner of the site is 8m from the existing house to the north. The existing houses is orientated so that a side elevation faces the new development with minimal amenity space between the new and existing house.

Issue: The houses on Duffus Crescent sit at a lower level than the application site which will increase overlooking.

Comment (PO): The change in levels is noted but it is not so great that the proposed houses will tower over the existing houses to the north. It should also be noted that the existing mound in the northern part of the site is to be removed as detailed on the proposed section drawings.

Issue: Plots 40-43 should be changed to bungalows in line with plots 37-39.

Comment (PO): The changes in the northern part of the site principally reflect the desire to retain as many trees as possible. It is recognised the change to bungalows does reduce the impact on some properties. The houses proposed on 40-43 have no upper floor windows (other than bathrooms) on that elevation and the existing houses to the north are also two storey. In this context this is considered to be acceptable and there is sufficient separation between buildings.

Issue: Plots 35 & 36 will overlook the houses to the west.

Comment (PO): A semi-detached Jb house type is proposed here. Each unit has three upper floor windows on the upper floor one of which is a bathroom in each case. These windows are not on the part of the building that projects towards the houses to the west. The existing house to the south west of plot 37 is orientated at angle away from the proposed building on plots 35 and 36. The house to the north west of plot 36 sits further north than the proposed house. There may be some overlooking of the area around that properties garage which is in the south eastern corner of the site. This is considered to be acceptable in this context.

Issue: Loss of green space.

Comment (PO): It is recognised that the development will result in the loss of what is currently open space but this is a designated housing site (Elgin R14) in the MLDP 2020 and until recently the site was occupied by Spynie hospital.

Issue: The impact on ground breeding birds.

Comment (PO): The phase 1 habitat survey submitted as part of the application recognise that there was potential for ground nesting birds to be present particularly in the wooded and scrub covered areas although it was noted that any nests on open parts of the site would be at high risk of predation in this location. Ground nesting birds and their nests are protected by the Wildlife and Countryside Act 1981 (as amended). In line with the requirements of the act the survey recommends that felling and vegetation clearance takes place outwith the bird breeding season or where that is not possible pre-start checks must be made. Where a nest is found an exclusion zone should be put in place until the nest is no longer active. A condition is recommended reflecting the recommendations contained in the habitat survey.

Issue: Two trees (5070 & 5085) with bat roost potential are identified but a further survey is only provided for one.

Comment (PO): The tree recorded as 5085 is to be retained therefore no further investigation is required. The tree recorded as 5070 was identified by the tree surveyor as having bat roost potential. A bat roost potential survey of this tree was subsequently undertaken by a licenced bat worker and found no evidence of a bat roost and concluded that due to the density of the canopy, the absence of cavities, lack of complexity of the stems and absence of raised or damaged bark the bat roost potential of this tree was negligible.

Issue: Mature Trees should be protected.

Comment (PO): There are estimated to be more than 900 trees on site and 491 are to be retained. The trees in the southern part of the site which bound Duffus Road are of high value and contribute significantly to the character of the site and the wider area. These trees are largely to be retained except for 62 trees which are either unsuitable for retention or identified as category C trees which will be removed as part of a positive woodland management programme. A further 351 trees will be removed across the site. This includes 34 individual trees (of which 15 are category B and 6 category C) and two groups of category C trees. The number of houses proposed has been reduced by 4 to allow for additional tree retention. Overall 413 trees will be removed while 740 will be planted across the site.

Issue: Habitat should be protected.

Comment (PO): An extended phase 1 habitat has been carried out. This found that while the site was well connected there was no direct evidence of protected species or their habitats. Several trees with bat roost potential were identified but none of these are to be removed. Pre-start surveys for bats, squirrel and badger are recommended.

Issue: The northern part of the site forms part of a wildlife corridor.

Comment (PO): This is not a formal designation. The phase 1 habitat survey recognised that the site was well connected but no evidence of bat roosts, squirrel dreys, badger sets or similar. It is noted above that pre-start surveys are recommended. The existing mature trees along the boundary with Duffus Road are largely to be retained and the proposed planting within the site will provide 'ecological stepping stones' for wildlife.

Issue: The original tree survey was not comprehensive.

Comment (PO): A revised tree survey has been provided along with tree schedule, tree constraints plan, tree protection plan and detailed tree retention strategy.

Issue: Contamination of the site must be fully considered.

Comment (PO): A condition is recommended requiring the submission of a detailed plan to deal with contamination across the whole site. It is noted that the former buildings had already been removed from the site prior to the current application being submitted.

Issue: Construction noise and disruption.

Comment (PO): Following consultation with Environmental Health conditions are recommended to control construction working hours and requiring the

submission of a Construction Environmental Management Plan (CEMP) to include measure to deal with noise, dust and artificial lighting during construction.

Issue: Increased noise and noise protection measures only proposed in relation to road noise.

Comment (PO): A Noise Impact Assessment has been provided which principally deals with the impact of noise from Duffus Road and mitigation measures are proposed in relation to that. Noise associated with construction will be managed through a Construction Environmental Management Plan (CEMP) which it is recommended is sought by condition. Noise associated with the houses will be at a level in keeping with a residential area in a town and no specific mitigation is considered necessary.

Issue: Providing a connections outwith the site to existing estates would require crossing of private land and would undermine the amenity of adjoining properties.

Comment (PO): The proposed paths will be provided as shown on the plans up to the boundary of the site. Any connection beyond on that onto private land would be a civil matter between the relevant parties.

Issue: Increased traffic.

Comment (PO): The development will result in an increase in traffic however the Transportation Manager is content that the current road infrastructure can accommodate this scale of development. The level of traffic is in keeping with a location such as this which is within an existing settlement.

Issue: The ability of the wider road network and in particular junctions to accommodate the development.

Comment (PO): A Transport Assessment has been provided which includes an assessment of the impacts on the wider road network and in particular on the Morriston Road/Brumley Brae junction and Morriston Road/Duffus Road (B9012) junction. It is noted in response to the CC above that while impacts were identified at certain times of day an assessment of the junction capacities at these junctions demonstrated that these junctions would be anticipated to operate within capacity for the future year with the completed development. The Transportation Manager advises that no mitigation is required at these junctions for the current application.

Issue: The section of Duffus Road between Spynie Avenue and Hamilton Drive should become a 'no waiting' area.

Comment (PO): Conditions can only be imposed to address matters arising from the development under consideration. The Transportation Section has not recommended this change in relation to this application.

Issue: Assessment of existing traffic movements should not take place during a pandemic

Comment (PO): The changes brought about by the pandemic were accounted for in the consideration of the application.

Issue: There is a requirement for a pedestrian crossing of Duffus Road. The proposed location of this is not safe due to speeding traffic.

Comment (PO): The provision of a pedestrian crossing is proposed and its position has been subject of consideration. The Transportation Manager has no objection to this in principle but some concerns were identified in the Traffic Assessment and further information is required to assess this. Traffic breaking the speed limit is a matter for the Police.

Issue: The location of the access is dangerous.

Comment (PO): The access to be used is one of two existing accesses to Duffus Road. The other access will be closed to vehicular traffic. The Transportation Manager has not objected to the intensification of the use subject to conditions relating to the visibility splay.

Issue: Lack of parking.

Comment (PO): The Transportation Manager is content that the level of parking is in accordance with the Moray Parking Standards. A condition is recommended to ensure that it is timeously provided and at the required level.

Issue: The Transport Assessment is incomplete and not comprehensive.

Comment (PO): There was detail missing from the original submission The TA has now been accepted by the Transportation Section.

Issue: A footway is required along the north of Duffus Road.

Comment (PO): A 2m wide footway is proposed on the north side of Duffus Road to the west of the access. A condition is recommended requiring further details of this to be submitted and agreed.

Issue: The adjoining site is subject to issues with surface water flooding and this development will exacerbate this.

Comment (PO): A Drainage Impact Assessment has been submitted and amended drainage layout forms part of the application. The Flood Risk Management Team has no objection. On the basis of the information provided the development will not increase the risk of flooding on site or elsewhere.

Issue: Healthcare, education and services are already overstretched.

Comment (PO): This is an allocated housing site therefore development on this site forms part of future strategic planning. A developer obligation towards healthcare is sought, with no other obligations sought.

Issue: Community comments from the pre-application events were ignored.

Comment (PO): A report on the statutory pre-application process was submitted as part of the application. This sets out the process that was undertaken which was in line with statutory requirements and identifies responses to points raised. The purpose of Pre-application Consultation is for communities and stakeholders to comment. Developers must take cognisance of this but are not necessarily required to make changes in response to every point raised. Furthermore where the development is otherwise acceptable or the PAC public comments are not planning related or proportionate to the proposal they may not be pulled through to a final development.

Issue: The site should remain in NHS use.

Comment (PO): The application must be assessed as presented, and any separate decision to cease the use of the site for NHS purposes was taken separate from the current planning process.

Issue: The site is fully affordable so it is not clear why does the Council Housing Section consultation response asks for provision to ensure that affordable and accessible housing requirements are considered if any of the plots change tenure.

Comment (PO): This is standard practice in relation to affordable housing. A condition is recommended to ensure that the units remain affordable housing. Planning Permission would therefore be required to change the tenure and the need for affordable and accessible housing would be considered as part of that application.

Issue: The lodging of the application during the pandemic disadvantaged those without out internet access.

Comment (PO): The application was advertised in the Northern Scot in line with statutory requirements. Neighbour Notification has been carried out on three separate occasions due to changes to the plans. The national emergency planning legislation put in place to cover the pandemic has been followed but it is acknowledged that the access to paper public records was diminished over the pandemic, but this could not be allowed to stall the planning system or wider economic development.

Issue: Costs of the development to the Council.

Comment (PO): This is not a material consideration in the assessment of the planning application. The Council has an obligation and budgets for housing provision.

Issue: The dentist should not be included.

Comment (PO): The existing dental practice is not within the application site boundary.

8. OBSERVATIONS

8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

8.2 **Principle of Development (DP2 & Elgin R14)**
The site is identified as Elgin R14 in the MLDP 2020 and the designation text states that it has an indicative capacity of 50 units. The site was previously occupied by the former Spynie Hospital which has now been demolished. The Council's Housing Need and Demand Assessment highlights a significant requirement for affordable housing in Moray and providing affordable housing is a key priority for the Council. The current proposal is a stand-alone scheme for affordable housing that will contribute towards meeting housing needs in Moray. This application is an application for housing on a designated housing site. It proposes the re-development of a brownfield site within the town and

will address housing need in the area. The principle of development is therefore acceptable and in line with the MLDP designation R14.

8.3

Placemaking, Design and Materials (PP1 & DP1)

The proposal was subject to the Quality Audit (QA) process to assess compliance with policy PP1. The proposed layout has changed significantly since the original submission to address a number of concerns in relation to placemaking and issues in relation to trees as noted below. Two units that were sited within the central green area have been removed to create a more cohesive development. Other units have been omitted to allow for greater tree retention. Plots 39-40 on the original plan have been changed from two semi-detached houses to a single bungalow. Plots 43-44 on the original layout have been changed from semi-detached houses to bungalows. The overall number of units has been reduced from 54 in the original submission to 49 in the current proposal. Greater clarity and distinction has been added to the character areas and key buildings given greater emphasis. The parking layout has also been altered to ensure that the development meets the requirement to have at least 50% of the parking behind the building line. The table below demonstrates the proposal has gone from attracting reds in the initial QA to achieving green in each relevant category in the final QA.

Design Principle	Initial Score	Final Score	Mitigation/Condition Necessary to Score Green
Character & Identity			Compliant with policy requirements.
Healthier, Safer, Environments			Condition relating to the provision of public art ensuring it reflects cultural associations including a timeframe for delivery and maintenance arrangements.
Housing Mix	N/A	N/A	Site is for 100% affordable homes
Open Space/Landscaping			Condition ensuring that a plan showing details of the proposed equipment (including surfacing) to ensure these meet accessible needs is provided prior to commencement. Condition requiring details for maintenance arrangements.
Biodiversity			Condition ensuring that hedgehog highways are provided between plots as well as numbers and locations of all bat and bird boxes.
Car Parking			Compliant with policy requirements.
Street Structure, Layout and Detail			Compliant with policy requirements.

- 8.3.1 The placemaking statement makes clear that a development of identify and character will be created. The character and identity of the site based around the landscape and colours of the existing area. Six different house types are proposed. Type A are 1 bedroom flats arranged in two storey blocks, Type B are 2 bedroom bungalows, Type H (and north variant) are 3 bed two storey houses, Type Ja is a 4 bedroom two storey house, Type Jb is a 4 bedroom two storey house, type F is a 3 bedroom bungalow and Type K is a 4 bedroom bungalow. The houses have traditional basic foot prints and symmetrically pitched roofs. The houses are relatively simple in style and avoid excessive detailing. The proposed development will create a distinctive development that is rooted in typical architectural forms and styles of the area. The form and style is different from adjoining developments which are more suburban in style but will form an acceptable contrast in terms of style and finish. It is noted that a mix of single and two storey houses are already found in adjoining developments and this mix is acceptable in this location.
- 8.3.2 Three character areas are proposed. This loosely follows the three streets that are to be formed. The northern character area will have houses with pale off-white render with blue grey stained timber entrances. In the central Main Avenue character area a warmer darker render will be used with grey green timber entrances. In the southern character area the houses will be timber clad with burnt red cladding at the entrance. All the houses will have a corrugated grey metal roof. Key buildings have been introduced in each character area. These will have dark stained timber walls with sand yellow entrances and red metal on the roof. Different street materials will also be used within each character area. The use of different materials will help to create distinctive character and identify while still creating a cohesive overall development. The identification of key buildings will improve legibility through the site and add visual interest to the development. All the proposed materials will relate well to the surrounding landscape and while they will not match adjoining development they will form an acceptable contrast.
- 8.3.3 In relation to healthier and safer environments a number of improvements have been made relating to road safety and to ensure acceptable levels of natural surveillance. Details of street naming have been provided all or which include the name Spynie which continues the historic naming pattern of the site. Details of public art are still to be finalised but a strategy has been provided which proposes artworks based on the management of water and the changing landscape which characterise the area. A condition is recommended to control this. The landscaping and open space are discussed in more detail below but are now acceptable and will help to integrate the development into the wider landscape. It is noted below that adequate proposals for biodiversity enhancements are proposed through the biodiversity plan. The parking is now acceptable in both quantitative and qualitative terms and the Transportation Manager has no concern in relation to parking, street structure or layout.
- 8.3.4 The proposal achieved greens in each relevant category of the QA and therefore subject to the recommended conditions complies fully with policy PP1.

8.4

Amenity (DP1)

The development is sited and designed in a manner that will ensure an acceptable level of amenity for new residents. The impact on the amenity of existing houses has also been considered and judged to be acceptable. It is noted in response to representations above that an additional 'north variant' type H has been introduced which has only bathroom windows on the upper floor which will prevent overlooking of properties to the north. The two storey house on plots 35 and 36 is sited and orientated such that there will be minimal direct overlooking from upper floor windows. The boundary fences will prevent any loss of privacy on the ground floor. It is also noted in response to representations that the Council has no specific guidance on separation distances and each case is judged on its own merits. The properties to the north are between 10m and 12m from the northern boundary with the exception of the corner plot (37) which is approximately 6m from its northern boundary. The distances between the houses varies between 16m and 23m as a number of the existing properties have had extensions to the rear. To the west distance between the proposed houses and the western boundary vary between 11m and 16m. The separation distances are typical of a residential area of this kind. It is noted above that the existing house to north of plot 37 is closer to the existing property to its west than plot 37 is to the house to its west. The separation distances are considered to be acceptable in this context. Along the northern boundary a mix of single and two storey are proposed. The houses to the north are two storey. There is a slight change of levels but this is not such that the proposed houses will dominate the existing houses. The relationship is considered to be acceptable and in keeping with the character of the existing development. Overall it is concluded that the development will not have an overbearing impact on the amenity of residents of existing houses. The proposal therefore accords with policy DP1 (i)(e) and will not diminish neighbouring amenity to an unacceptable level.

8.5

Impact on Trees (EP7)

There is mature woodland in the south west of the sound bounding Duffus Road. Across the site there is more sporadic tree cover associated with the previous hospital use. There are also trees in the northern part of the site along with more scrubby growth and bushes. The application is supported by a tree survey and accompanying report, a tree protection plan and a written document setting out the tree retention strategy. It is noted in the supporting documents that tree numbers have been corrected and clarified during the course of the application and that the proposals for tree removal have been revised.

8.5.1

Policy EP7 presumes against tree removal for development. Trees surveys categorise trees as A, B, C or U (unsuitable for retention) according to BS5837 and the policy requires that category A and B trees must be retained unless it is technically unfeasible to do so and category C trees to be retained as far as practicable and appropriate. In this case the survey identifies three distinct areas of the site – the mature woodland bounding Duffus Road in the south west of the site, the central part of the site and the northern part of the site. The trees in the southern part of the site which bound Duffus Road are of high value and contribute significantly to the character of the site and the wider area. These trees are largely to be retained although 61 trees which are either unsuitable for retention or identified as category C trees will be removed as part

of a positive woodland management programme. This is acceptable in terms of the policy.

- 8.5.2 In the central part of the site previously occupied by the hospital 18 individual trees are proposed for removal. These trees were part of the hospital landscaping and have entirely lost their setting and context. Nine of these are category B and 3 are category C. The rest are U category. Four of the category B trees and one of the category C trees need to be removed to accommodate the main access through the site including to ensure sufficient space for emergency and refuse vehicles. Two category B trees and two C trees conflict with the siting of the proposed SuDs basin which technical assessment has concluded is best sited in the location shown. Two category B trees are to be removed to accommodate the new road layout. In the interests of good placemaking this is considered to be acceptable in this instance. In the northern part of the site two groups of tree identified as category C totalling 318 trees and 16 individual trees category B, C and U are to be removed. The groups need to be removed due to their scrubby and dense composition. These appear to be largely self-seeded trees which have taken hold on vacant land including the artificial mound in the northern part of the site. They do not form part of the long established character of the area in the way that the woodland in the south and west does and their removal is considered to be acceptable. Six of the individual trees in the northern part of the site (Four category B and two category C) are self-seeded trees which encroach on a utilities wayleave and therefore have to be removed. Three other category B trees and to make way for the proposed path connection to the north. One category C tree is proposed for removal to accommodate the house on plot 37. It cannot be retained without severely compromising the root system. Given that it is a category C tree and the overall benefits of providing affordable housing in this location the removal of this tree is considered to be acceptable.
- 8.5.3 In total 413 trees will be removed between the woodland and the wider site. Plots have been removed from the north and east of the site and the overall number of units reduced to allow for greater tree retention. The removal of category B and C trees is thoroughly justified in the tree retention strategy document. While tree removal is generally resisted it is recognised that a thorough technical justification has been provided in this case and significant steps including the removal of plots have been taken to avoid tree removal. Given the justification provided tree removal is considered to be acceptable in this location.
- 8.5.4 Policy EP7 requires compensatory planting on a one for one basis. In this case extensive tree planting is proposed throughout the site. This consists of 22 species trees to be planted throughout the site, 91 trees to be planted in the street and 627 to be planted in the woodland. In total proposed planting of 740 trees is proposed which will be a net gain of 327 trees across the site. This is detailed in the submitted landscaping plans. A condition is recommended requiring the submission of an implementation plan setting out when the different elements of the planting scheme including tree planting will be provided. A condition is recommended to ensure the protection of retained trees. Subject to the recommended conditions the proposal complies with policy EP7.

8.6 Impact on Species and Habitats and Biodiversity (EP1 & EP2)

An Extended Phase 1 Habitats Survey has been submitted as part of the application. The site is well connected and likely to be used by a range of wildlife however, the survey found that outwith the mature woodland to the south west which is largely to be retained the site provided limited opportunities for habitats and no direct evidence of protected species was found on the site. Pre-construction surveys for bats, red squirrel and badger are recommended in the report and these form part of the recommended conditions. It is also recommended that a CEMP is sought by condition which must cover arrangements for the discovery of any unforeseen protected species on site.

- 8.6.1 The bat roost potential of the trees was investigated. It is noted in response to representations above that additional work was required to confirm that no trees with bat roost potential was to be removed. The tree recorded as 5070 was identified by the tree surveyor as having bat roost potential. A bat roost potential survey of this tree was subsequently undertaken by a licenced bat worker and found no evidence of a bat roost and concluded that due to the density of the canopy, the absence of cavities, lack of complexity of the stems and absence of raised or damaged bark the bat roost potential of this tree was negligible.
- 8.6.2 Suitable nesting habitat was recorded across the Survey Area, particularly the woodland and scrub areas to the north where remnant bird nests from previous years were recorded. The bare ground offers opportunities for nesting however the study noted that there is limited protection and high levels of predation was likely. Ground nesting birds and their nests are protected by the Wildlife and Countryside Act 1981 (as amended). In line with the requirements of the act the survey recommends that felling and vegetation clearance takes place outwith the bird breeding season or where that is not possible pre-start checks must be made. Where a nest is found an exclusion zone should be put in place until the nest is no longer active. A condition is recommended reflecting the recommendations contained in the habitat survey.
- 8.6.3 Subject to the recommended conditions the proposals comply with policy EP1.
- 8.6.4 Policy EP2 requires all developments to protect and enhance biodiversity and proposals for 4 or more houses are required to submit a biodiversity plan. The plan submitted with this application identifies a range of biodiversity enhancements. There were be a range of different habitats including the mature woodland which is to be retained along with the creation of wetland areas around the suds infrastructure. The planting within streets and green space throughout the site will provide 'ecological stepping stones' for wildlife and offer habitat opportunities. Bat boxes and bird boxes are to be installed and a condition is recommended to ensure that these facilities are timeously provided. A further condition is recommended to secure the provision of hedgehog highways between plots. The proposals will ensure that the development includes many features that are positive for biodiversity. Subject to conditions the proposals accord with policy EP2.

8.7 Landscaping and Open Space (PP1 & EP5)

A detailed landscaping plan is provided. This provides for a variety of planting including shrubs, trees and wildflowers. The plans include structural planting of

trees and woodland 'understorey', specimen tree planting throughout the site, hedge planting, shrub and groundcover planting including within the roadside swales and grass and wildflower seeding. The range of planting proposed will serve to reinforce the wooded character of the site and create a strong sense of place. It will also provide opportunities for biodiversity enhancements. A detailed maintenance plan is also provided. No information on the timing of planting has been provided with the application. This will inevitably vary across the site and each element of the landscaping proposal. It is anticipated for example that structural woodland planting would be carried out at an early opportunity while some elements would be difficult to provide while construction works were ongoing. It is therefore recommended that a detailed implementation plan is sought by condition to set out the timescales for provision of all elements of the landscaping. This will require all planting to be carried out no later than the first planting season following completion of the development. The proposal complies with the landscaping requirements of policy PP1(iv).

- 8.7.1 Policy EP5 requires all development to meet quantity and quality standards for open space. Developments must achieve a quality score of no less than 75% and proposals of between 10 and 50 units such as this are required to provide a minimum of 15% open space. The proposals show open space throughout the development centred on a central green area which will contain a play park and kickabout pitch and benches. There is also an 'orchard' area to the east which provides raised beds potentially for food production. A tree covered area in the north of the site is now to be retained along with the wooded sections along the boundary with Duffus Road. There will also be planting along the streets which help create the sense of a green network throughout the development. The level and range of open space provided is considered to be acceptable for a development of this scale and the quantity of open space provided meets the requirements of the policy. An indicative schedule of play equipment has been provided but a condition is recommended requiring that final details are provided which must include provision for equipment that is accessible to those with a range of additional physical and sensory needs. Notwithstanding the requirement for additional play park details the proposal was assessed against the quality criteria and scored over 75% meaning that it is deemed to comply with policy. The open space provision accords with policy EP5 and the landscaping requirements of policy PP1 (iv).

8.8 **Access and Parking (DP1)**

There are currently two accesses to the application from Duffus Road. The access to the south east is to be made into a cycle path and there will be no vehicular access at this point. The exiting access to the west of the bus stop will become the only access to the site and will provide access to the dentist and nursing home beyond. The Transportation Manager has no objection subject to conditions to ensure adequate visibility at the access. Conditions are also recommended to secure visibility within the site including the removal of permitted development rights for development in service strips along plot frontages.

- 8.8.1 A Transport Assessment (TA) has been provided which includes an assessment of the impacts on the wider road network and in particular on the Morriston Road/Brumley Brae junction and Morriston Road/Duffus Road

(B9012) junction. It is noted in response to the Community Council above that while impacts were identified at certain times of day an assessment of the junction capacities at these junctions demonstrated that these junctions would be anticipated to operate within capacity for the future year with the completed development. The Transportation Manager advises that no mitigation is required at these junctions for the current application.

- 8.8.2 The provision of a pedestrian crossing is proposed. The submitted TA highlights some concerns with the current proposal and while it is considered acceptable arrangements can be agreed these have yet to be provided. Conditions are therefore recommended to secure the provision of detailed information regarding an acceptable solution to ensure that it is provided in a timely manner.
- 8.8.3 At present there is no continuous footway along the north side of Duffus Road from the proposed site to access to the existing cycle path to the west. A condition is therefore recommended to secure this.
- 8.8.4 The Transportation Manager is content that the level of parking is in accordance with the Moray Parking Standards. Further details of cycle storage and EV charging are required but the submitted information but locations have been identified. Conditions are recommended to secure these elements.
- 8.8.5 It is also recommended that a construction phase traffic management plan to ensure that construction traffic is effectively managed.
- 8.8.6 In addition to the vehicular access three potential connections are provided which will allow access to the existing woods to the east and to the existing development to the north. The Access Manager has no objection to the amended plans.
- 8.8.7 The proposal accords with policy DP1 (ii).
- 8.9 **Drainage & Flood Risk (EP12 & EP13)**
A Drainage Impact Assessment has been submitted and amended drainage layout forms part of the application. Surface water drainage will be dealt with via a network of swales and filter trenches and a suds pond. The swales have been integrated into the road verges and green spaces to create an effective blue green network throughout the site. Parts of the site are identified on the SEPA flood maps as being at risk of surface water flooding. However, the submitted information demonstrates that surface water will be effectively managed and on the basis of the information provided the development will not increase the risk of flooding on site or elsewhere. The Flood Risk Management Team and SEPA have no objection.
- 8.9.1 The development will be connected to the public sewer and water supply. Scottish Water has no objection.
- 8.9.10 The proposal accords with policies EP12 & EP13.

8.10 **Contaminated Land (EP14)**

There is potential for land contamination due to the previous use of the site. This has been partially investigated and a remediation plan provided. The remediation plan is acceptable in principle however, the investigation did not include the area of land in the northern part of the site. A condition is therefore recommended to ensure that the whole site is fully investigated and appropriate remediation is provided across the site as necessary. Subject to the recommended condition the proposal accords with policy EP14.

8.11 **Noise (EP14)**

The development will lead to some noise and disruption during construction. Conditions are recommended to control construction working hours and requiring the submission of a Construction Environmental Management Plan (CEMP) to include measure to deal with noise, dust and artificial lighting during construction.

- 8.11.1 An NIA has been provided which principally deals with the impact of noise from Duffus Road and recommends the erection of noise proofing fence on some boundaries that are close to Duffus Road. This is required on rear gardens only. The fence will be 1.8m high and indicative images show it will have the appearance of a typical garden fence. It is recommended that details of the final fence design are sought by condition. Noise associated with the houses will be at a level in keeping with a residential area in a town and no specific mitigation is considered necessary. Subject to the recommended conditions the development will not cause unacceptable pollution and accords with policy EP14.

8.12 **Information Communication Technology (ICT) (PP3)**

Policy PP3 Infrastructure & Services vii) requires development proposals to incorporate the installation of Information Communication Technology and fibre optic broadband connections (unless justification can be provided to show that ICT is technically unfeasible). The provision of fibre optic IT cabling will be sought by condition.

8.13 **Developer Obligations**

Developer obligations of £118,164 are sought towards the extension of Maryhill Medical Practice and five additional dental chairs. This will be controlled by means of a legal agreement reflecting the fact that this is a development by the Council.

Conclusion

The proposal seeks to redevelop a brownfield site which is identified for housing in the MLDP. The proposal accords with policy and has achieved greens in the final Quality Audit. Significant changes have been made to the proposal to allow for more trees to be retained on site and to address placemaking and amenity concerns. The proposal is a well-sited and well-designed development that will see a derelict site returned to use. The application is recommended for approval subject to the recommended conditions and conclusion of a legal agreement in relation to Developer Obligations.

REASON(S) FOR DECISION

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

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

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APPENDIX

MORAY LOCAL DEVELOPMENT PLAN 2020

POLICY

R14 Spynie Hospital 2.85 ha 50 units

- Buildings now demolished.
- Bat and squirrel survey required.
- Proposals must aim to maintain the woodland character of the site by incorporating new tree planting.
- A Tree survey is required.
- Consideration to de-culverting watercourse required.
- Transport Assessment required. TSP 11 and 12 must be assessed.
- Given the site's former use, a Contamination Assessment is required.
- Footpath and cycle links from Duffus Crescent to Duffus Road to be provided.
- Links to Core Path to south of site to be made.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Pocket Park must be provided.

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street

structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;

- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

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

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

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

- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

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

(vii) Street Layout and Detail

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

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan. 111

- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP3 INFRASTRUCTURE & SERVICES

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

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
 - i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
 - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
 - iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
 - iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
 - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
 - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;

- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

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

DP2 HOUSING

- a) Proposals for development on all designated and windfall housing sites must include a design statement and shall include supporting information regarding the comprehensive layout and development of the whole site, addressing infrastructure, access for pedestrians, cyclists, public transport and service vehicles, landscaping, drainage, affordable and accessible housing and other matters as may be required by the planning authority, unless these requirements are not specified in the site designation or are considered not to be required.

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

b) Piecemeal/ individual plot development proposals

Piecemeal and individual/ plot development proposals will only be acceptable where details for the comprehensive redevelopment of the site are provided to the satisfaction of the planning authority and proposals comply with the terms of Policy

DP1, other relevant policies including access, affordable and accessible housing, landscaping and open space and where appropriate key design principles and site designation requirements are met.

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

c) Housing density

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

d) Affordable Housing

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

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

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

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 40.

e) Housing Mix and Tenure Integration

Proposals must demonstrate tenure integration and meet the following criteria;

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

f) Accessible Housing

Housing proposals of 10 or more units incorporating affordable housing will be required to provide 10% of the private sector units to wheelchair accessible standard. Flexibility may be applied on sites where topography would be particularly challenging for wheelchair users.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 41.

POLICY GUIDANCE NOTE- AFFORDABLE AND ACCESSIBLE HOUSING

Affordable Housing

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

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

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

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

A number of variables influence affordability of housing, including mortgage deposit requirements, mortgage interest rates, lower quartile house prices, lower quartile private rents, lower quartile full time gross earnings. Changes in these variables will affect the affordability of housing in Moray. The maximum affordable rent and maximum affordable house purchase prices is published on the Council's website at

http://www.moray.gov.uk/moray_standard/page_90100.html. The current Local Housing Allowance will be used as a proxy for average private sector rents.

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

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

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

affordable housing mix, detailing the size and type of housing required based on HNDA/LHS requirements.

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

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

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

Affordable housing requirement figures will be rounded up.

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

Accessible housing

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

Policy DP2 aims to;

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

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

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

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

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

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

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

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

Internal requirements

- Hallways- minimum 1200mm wide (HfVNs para 10.2.3 refers)
- Door frames- minimum 926mm wide door leaf, giving a clear width of 870mm (HfVNs para 10.5.7 refers)
- Bathrooms/ wet rooms- 1500mm wheelchair turning circle required (HfVNs para 14.9.2 refers)

Accessible housing requirement figures will be rounded down.

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

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

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

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

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

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

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

b) National designations

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

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

e) Other protected species

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

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

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

EP2 BIODIVERSITY

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

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

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

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

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

EP5 OPEN SPACE

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

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

- Be sited and designed to minimise adverse impacts on the principal function of the space and the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance.

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

The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused.

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

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

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

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

b) Green Infrastructure and Open Space in New Development

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

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

i) Accessibility Standard

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

ii) Quality Standard

All new development proposals will be assessed and must achieve a very good quality score of no less than 75%. Quality will be assessed by planning officers at the planning application stage against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected

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

Attractive and Appealing Places

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity)

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.

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

Promotes activity, health and well being

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

Safe, Welcoming and contributing to Character and Identity

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

b iii) Quantity Standard

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

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

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

quantity standard must be new open space provision within the application boundaries.

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

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

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

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

c) Control of Woodland Removal

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

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

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

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

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

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

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.
- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.

- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

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

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

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

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

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

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

Landscape Scheme

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
- Employment related accommodation e.g. caretakers or operational staff.

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

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

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

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

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

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

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

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

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

c) **Water Environment**

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

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

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

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

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

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

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.