

**19/00547/APP**  
**13th May 2019**

**Affordable housing landscaping and associated infrastructure (including relocation of playpark) at Playpark Bain Avenue Elgin Moray for Springfield Properties PLC**

---

**Comments:**

- A SITE VISIT has been carried out.
- The appointed officer is minded to refuse the application (as recommended below) as a material departure from the development.
- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes.
- 9 objections/representations received.

**Procedure:**

- None

**Recommendation:** Refusal

The proposal is contrary to the Elgin ENV3 Amenity Greenspace designation and policies E5 Open Space, H1 Housing Land and PP3 Placemaking of the Moray Local Development Plan (MLDP) 2015 for the following reasons:

1. The proposal would result in the unacceptable loss of the Elgin ENV3 designation at Bain Avenue, where the benefits of the proposed affordable houses are not considered to outweigh the value of losing this amenity and recreational open space area. The loss of this designated space would be contrary to policy E5 and H1 Housing Land by having a detrimental impact on the surrounding environment with a reduction of amenity space.
2. The additional housing on the ENV designation will negatively reduce the size of the overall green space and its ability to function as a neighbourhood park and its ability to adapt to any future recreational needs of the development and is therefore contrary to Policy PP3.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
MC26_ENG_250		FFL layout
2016/D/PL/01		D type - elevations and floor plans
2016/HI/PL/01		Cottage flats H1 type - elevations and floor plans
EL(--)-ENG-110		Drainage layout
MC(26)_LP_01	A	Location plan
MC/2017/F/01	H	F type semi detached - elevations and floor plans
MC/2018/C/01		CS type semi detached - elevations and floor plans
MC/2018/CS/01	D	CS type semi-detached - elevations and floor plans
MC26 FRA		2 of 5 Figures
MC26 FRA		3 of 5 Figures
MC26 FRA		5 of 5 Appendices
MC26-ENG-200		Swept path analysis layout
MC26_L_01	A	Village Green landscaping
MC26_SL_01	J	Village Green Elgin site layout
		Village Green - New Elgin Greenspace



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00547/APP**

**Site Address:**

Playpark

Bain Avenue Elgin

**Applicant Name:**

Springfield Properties PLC

Plans, drawings and other material submitted to the local authority are protected by the Copyright, Designs and Patents Act 1988 (section 47). You may only use material which is downloaded and/or printed for consultation purposes, to compare current applications with previous schemes and to check whether developments have been completed in accordance with approved plans.

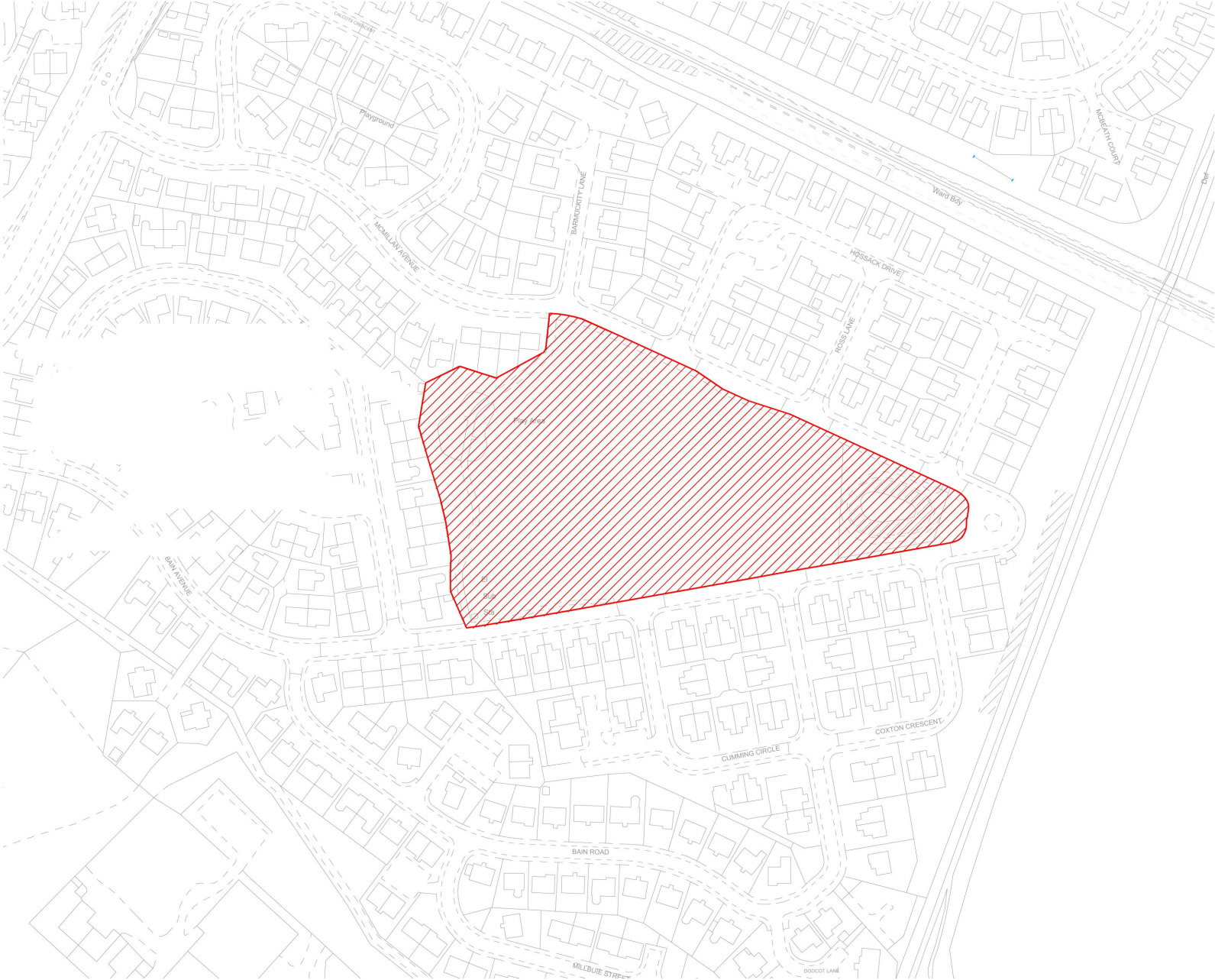
Further copies must not be made without the prior permission of the copyright owner.

Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Moray Council and other Copyright holders. This permission must be granted in advance.

## Location Plan



Site Location





## Site plan



















## PLANNING APPLICATION: 19/00547/APP

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

---

### **THE PROPOSAL**

- Detailed application (amended) to erect 26 affordable housing units (12 houses and 4 flats) and associated infrastructure at land at Bain Avenue Grove, Elgin.
- The units would form a single street running north to south linking Macmillian Avenue with Bain Avenue. The layout incorporates footpaths, a cycleway, open space and landscaping.
- The units would be a mixture of terraced and semi-detached 2 storey designs (providing 1, 3 or 4 bedrooms), with material finishes of white dry dash rough cast, larch cladding and grey roof tiles (to be agreed). They would have parking (on plot or communal), gardens, low hedge boundary planting along their frontages and 1.8m high timber fencing to the rear.
- The units would connect to the public water supply and foul drainage network. Surface drainage which discharge to the SUDS pond at the bottom of the site delivered by swale.
- The following supporting documents have also been provided; Design and Access Statement, Planning Statement which incorporates the Sustainability Statement, Transport Statement, Flood Risk Assessment, and Drainage Strategy Report.
- The proposals as amended include onsite landscaping proposals updated children's playpark, kickabout area and public art.

### **THE SITE**

- The application site extends to 2.09 ha and forms a triangular shaped area of open ground containing existing SUDS pond and play area serving wider Glassgreen development.
- The site forms part of the Elgin (ENV4 Playspace for children and teenagers and ENV3 Amenity) designation, as identified within the Moray Local Development Plan (MLDP) 2015.

### **HISTORY**

**02/01131/FUL** - Establish community parkland and community woodlands including pathway on CF3 Linkwood Elgin. Establish community recreational area and community facilities including football pitches, site for pavilion, road and car parking layout, site for church and other community neighbourhood retail and office uses on land at CF4. Build residential development on R12 Reiket Lane Elgin at R12, CF3 & CF4 Elgin. Application approved 20/08/2004.

**09/01272/FUL** - Develop 128 dwellings including 73 council/affordable homes at R3 Linkwood East Elgin Moray. Application approved 08/02/2010.

**16/01074/APP** - Erection of affordable housing [16 units] and associated infrastructure at Stonecross Hill, Waulkmill Grove, Elgin – Application refused at committee 27.03.2017. Application subsequently appealed to DPEA and approved 03.11.2017.

## **POLICY - SEE APPENDIX**

### **ADVERTISEMENTS**

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

### **CONSULTATIONS**

**Strategic Planning and Delivery** - The principle of development on this site is not supported as it is an unacceptable departure from Policy E5 Open Space. The loss of ENV is not supported by policy E5. The only exception is where a public use is proposed that outweighs the value of the open space; adverse impacts on the recreational, amenity and biodiversity value of the site are minimised; and there is a clear excess of the type of ENV within easy access and the loss will not negatively impact on the overall quality and quantity of open space provision.

Policy H1 Housing Land does not support new housing on land not designated for residential development where this is designated for an alternative use. This proposal is on land designated as ENV3 and ENV4 and is the open space for the Bain/Mcmillan Avenue development. The proposal is therefore a departure from policy H1.

Following a quality audit the proposal fails to satisfy the requirements of Policy PP3 Placemaking in terms of development layout, provision of additional SUDS features and recreational spaces.

**Moray Flood Risk Management** – No objection to proposed development following submission of further drainage and flood risk information.

**Developer Obligations** - Developer Obligations assessment carried out in relation to current Local Development Plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities and a new primary school at Linkwood. A unilateral instrument of Planning Obligation will be required to secure these contributions.

**Elgin Community Council** - We like the fact that the play area can be seen from various properties. These are too often stuck away out of sight making them seem unsafe unless adults are in attendance. If other parents can see the area it's more likely that younger children from nearby will be allowed to use the play area.

This overall "village green" area could be a nice place for family oriented activities with the play area being the catalyst for such activities. One could imagine events like a



community barbeque for example with an intergenerational group of people taking part yet allowing the houses closest to retain their privacy behind the boundary fence.

**Environmental Protection** – No objections or comment.

**Sport Scotland** – No objection or comment.

**Scottish Water** – Scottish Water has no objection to this planning application.

**Environmental Health** – No objections or comment.

**Contaminated Land** - No objections or comment.

**Transportation Manager** – No objection in principle but conditions suggested in relation to road layout, drainage, parking, landscaping, refuse collection, surfacing proposals.

**Housing Strategy and Development Manager** - The applicant's proposals for provision of 100% affordable housing are noted. The proposals provide affordable housing in excess of that required by Policy H8 (i.e. 25%). The over provision on this site will not be considered to offset any affordable housing required from any other development.

The applicant should contact Housing and Property to agree the delivery arrangements of the affordable housing prior to commencing works on site.

Policy H9 is not applicable because there are no private sector housing units proposed.

Any consent should include provision for reassessment of requirements under Policies H8 and H9, if applicant changes the tenure of any of the properties from public to private sector.

## **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).

There have been a total of 9 representations received.

[REDACTED]

Two neighbour notification periods have been run during the consideration of the application, and all representations have been considered and summarised below, with no

assumption that previous representations superseded have been withdrawn. All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation being finalised. The material grounds for objection/representation are as summarised below.

The grounds for objection/representations have been generally grouped into the topic heading below to aid reference.

### **Issue: Flooding**

- The area already floods and if the ground is going to be raised behind 63 Fogwatt Lane for the new houses the water is going to flow back the way into the garden and cause it to flood.
- The area is waterlogged a large portion of the time, as noted by SEPA. Since the consultation on 7 March, we have observed that a drainage test has been carried out on the proposed site (with none of the participants displaying any identification), on a day where there hadn't been rainfall for at least 2 days previous. Despite this, the digger tracks still managed to tear up the ground quite considerably, and during the test, the area flooded, and the water remained the next day. We haven't seen the official results of the drainage test (as we don't know who actually carried it out), but we have seen the physical results of saturated, torn up ground, and long lasting puddles.
- On looking at the plans, the finished floor level (FFL) for all properties will be above the current levels of the ground. Without reference points on the Finished Floor Level drawing it is hard to ascertain the housing level compared to current properties. The topo survey within the drainage survey indicates that 14 property's FFL will be 0.5m and above the current land levels of which approx 6 properties will be approx 1m FFL higher than the current land levels. This would raise the properties where surface water flooding often occurs on the village green but this could affect the overall drainage and heighten further drainage flooding issues on this site. If there was any future flooding issues on this site, the village green would act as a natural flood storage location and constructing more properties on this location would reduce its benefits and increase the risk.
- The proposed development site is also well within the high risk zone of the flood plan for this area, while my property is just outside of it. Building housing in the proposed location would divert the flow of any water that builds up as a result of flooding and potentially end up flooding my property, protection from which was a contributing factor in our decision to purchase our property. There has over the last week been a few days of rainfall, and the grass is still like a sponge a couple of days since then. This demonstrates how the grass serves as an important part of how the surrounding properties are protected from heavy rainfall.
- Over the 12 years of living at Bain Avenue flood events have been witnessed and the area known as the village green can often be left with surface flooding after heavy rainfall.
- I was astonished that the flood risk assessment refers to "Waulkmill Village Green"? Waulkmill is located in a different location within Elgin, this does bring into question the accuracy of the report and whether this report has been a desktop study only.
- The current village green already suffers from very poor drainage, the SUDS system is not working. We have already suffered from floods in the area and are still very concerned that the current drainage system is ineffective and developing the site further would only exacerbate the situation.
- There have been ground water issues within the development over the last 11 years and the village green is regularly waterlogged/flooded. This does not prevent

residents using the village green. However if an additional 26 houses were built then this would only compound the ground conditions further.

- At the PAN exhibition, Springfield Properties confirmed that the 26 additional houses would be built at a higher finished floor level than the existing houses (to ensure they do not get flooded). Not only will this be visually incongruous but it will also help to ensure that the water will run off into the existing social housing on Bain Avenue.

### **Comment (PO)**

- The existing topography of the site flows towards the existing detention basin not towards objectors properties.
- The surface water flooding issue is known about and the site is susceptible to pluvial flooding. As part of the application submission a flood risk assessment and drainage impact assessment was included but found to be lacking sufficient detail to make an informed decision on the likely impact of the proposal. The applicant submitted additional information in the form of enhanced drainage statement and flood risk assessment and following further consultation with Moray Flood Risk Management, including assessing all details of finished floor levels, images and details of the Bain Avenue site, they have not objected on flood or drainage grounds.
- SEPA has been consulted and has confirmed that as this site is subject to pluvial flooding only the determining body is MFRM not SEPA. Consequently they have raised no objection.
- The applicant/agent has confirmed that the flooding shown in images attached to objection dated 10 June 2019 and separate objection photo submitted 26 June 2019 refer to an event that happened in 2014 prior to construction of the recent part of the development known as MC20 and significant remedial works had been undertaken to resolve this to ensure it does not reoccur in the future.
- Despite reference to other sites the Moray Flood Risk Management team are satisfied with the information submitted in relation to the application site.
- The concerns with a further 26 units on the ENV designation is understood and referred to and covered elsewhere in this report. However despite an increase in units and taking into consideration all factors including finished floor levels the MFRM team are satisfied with the proposed mitigation in relation to drainage and surface water treatment for the development.

### **Issue: Loss of ENV**

- The park is also going to be taken away during the building process however this means the area will be left with no park for a number of months for a very large residential area leaving a large number of kids with no access to another park without having to cross busy roads.
- I also know that we are meant to have around 30% open area in every residential area which we are already below so if you are to add more houses here this further reduces the percentage.
- The area of green space which exists at the moment is even too small for the number of houses and families living on the development.
- When property owners in Bain Avenue, MacMillan Avenue and Barmuckity Lane purchased our properties we were assured that the green space would be kept and the most development that would ever be undertaken would be limited to a single row of properties directly behind the existing properties in Fogwatt Lane. This planning application is for 2 rows of properties therefore reducing significantly the amount of green space.

- The current size of the Village Green is inadequate for the existing number of properties on this development. If these 26 houses are built it will reduce the size of the greenspace further.
- This application does not comply with the windfall policy especially where the site has been designated through the Local Plan process since 2015 therefore it does not meet one of the main key tests of the Policy. This would, in turn, show that all ENVs designated within the Local Plan could also be identified as windfall for affordable housing.
- The area of open space was created by Springfield Properties under multiple applications, with 09/01272/FUL which created the village green area. The applicant and land owner has had multiple occasions when submitting previous planning applications and through the compensatory planting from 16/01074/APP, to improve the open space at this site but unfortunately they have failed to improve it. Springfield Properties has highlighted the need for affordable housing within Elgin as their main driver for developing on an existing designated ENV site. Springfield Properties has many other developed sites in Elgin, some within the New Elgin area approximately 1 mile from this site, where they have offset the construction of the required affordable properties - these have been constructed on other sites, this includes the development at Bain Avenue and Stonecross. Sites developed under applications 10/02115/APP and 15/02056/APP have much higher quality open space and are a more sought after quality development. These two developments do not have any affordable/Council properties and do not have a general mix of private and affordable housing. It appears the developer has used the Bain Avenue development as an area to place affordable housing leaving the area with a very high percentage of affordable houses in one place. Adding further affordable units (Social housing) would not achieve a good mix of tenure on this site and it would further increase this large concentration of social housing at this development and therefore possibly increase the difficulties associated with this.
- Will the need for more social housing by Moray Council blind them to the obvious significant monetary costs that they will have to fund when their existing social housing is flooded and residents will require to be re-homed and the houses repaired etc?

### **Comment (PO)**

- The principle of the development is not acceptable because of the impact on and the loss of ENV designation. The local development plan background has been referred to elsewhere in this report and sets the context for why this proposal is being recommended for refusal.
- The site is not within the Council's Strategic Housing Investment Programme (SHIP). Investment in affordable housing is largely dependent on the level of resources from Scottish Government and this is acknowledged within the Local Housing Strategy (LHS). The LHS 5yr supply target in the Elgin Area is 618 affordable houses. The barrier to meeting this target is not land, it is finance. The SHIP forecasts 267 completions in the Elgin Area 2020/2021, with 233 of these in Elgin. Sufficient land is designated in Elgin, including land within the applicant's control that has planning consent, where delivery of affordable housing must be prioritised before consideration is given to eroding open space that was intended to meet the open space needs of previous housing development.
- Moray Council is not the delivery partner for the affordable housing. It is understood this is to be Hanover Housing Association. The issues of flooding have been covered already and whilst affordable housing has been considered a public use through other applications in this case the proposal does not outweigh the value of



the open space for recreational and amenity public use. The ENV is an important open space within the locality performing a function for the wider neighbourhood.

- See also the observations section of the report.

#### **Issue: Transport**

- The TA1 form is only completed for the proposed site as it is a contained site within an area rather than looking at the development as a whole. The TA1 form indicates there will be at least 60 vehicle movements over a two hour period each day between the proposed site and Bain/McMillan Avenue. This report does not include any additional vehicle movements during other hours or from visitors/service providers etc. This would mean vehicle movements would be much higher. The TA1 form does not take into account the increased vehicle movements to and from the junctions to Reiket Lane or the cumulative effect on the pressurised junctions indicated in the proposed Local Development Plan and the Elgin Transport Strategy e.g. TSP33, 34, 42, 45 and 30 to name a few. These are located along Reiket Lane/Linkwood Road/Thornhill Road/Edgar Road etc.
- I believe due to the cumulative effect of vehicle movements from this proposed development, the newly completed Stonecross development and the ongoing developments at Linkwood Steading and Elgin South, a larger study should take place. Much of the road network within the Linkwood development is subject to high numbers of on street parking. This is quite evident to the west of the development site on Bain Avenue. Furthermore, due to the phased development of the site from Reiket Lane, the piecemeal phased approach of the site and the documented over capacity of the site, the early constructed sections of Bain/MacMillan Avenue with Reiket Lane may not have the capacity or have been designed for the additional vehicle movements.
- The creation of extra dwellings will inevitably create extra traffic in an area which is already busy and through which drivers travel at excessive speeds with no regard to children crossing or other pedestrians or road users.
- Further Housing development would only increase traffic in the area and current speed restrictions are poorly designed in reflection to other Linkwood estates such as Glassgreen.

#### **Comment (PO):**

- Whilst the concerns are noted, the proposal (as amended) is considered nonetheless to be acceptable in terms of providing safe access and parking in accordance with Policies T2 and T5. The Transportation Manager has considered all of these issues as part of the application but does not object to the proposal on road safety, traffic congestion or parking grounds subject to conditions and informative notes being attached to the planning consent if permitted.
- It would not be reasonable to require the current development to address any perceived shortfall in parking spaces in the wider locality.

#### **Issue: Compensatory planting and loss of green space**

- Addition of the compensatory planting under application 16/01074/APP would raise the quality of the open space to meet the criteria of the Council's Policies and Open Space Strategy. The compensatory planting from 16/01074/APP was implemented by Springfield Properties but due to damage/plants dying, Springfield Properties has failed to meet their own maintenance schedule as approved under 16/01074/APP. It now appears that after the decision at Stonecross under planning application 16/01074/APP to resolve the issue of the inappropriate trees, very poor quality open space and the secluded play area within the green corridor, this allowed Springfield

Properties to develop affordable houses on a designated ENV area. This decision has now set a precedent where the developer and land owner, Springfield Properties, believe that by applying for affordable houses they can develop on ENVs which they have not maintained or provided as quality open space, either by themselves or their associated company Screen Autumn, which is the Factor Maintenance company on many of their developed sites.

- The proposed development in the village green area concentrates on moving the play park and landscaping around it. This is presuming the main purpose for this area is a play park. Many families and children enjoy the current play park on this site but much of the open area is utilised for exercising dogs, ball sports, biking etc, these activities welcome the size of the village green where they can be separate from each other. The proposed change would minimise the uses on this site and cause issues with these activities trying to take place in this area.
- The developer appears to just be adding approx 12 new trees for the village green on top of the tree compensatory planting and relocating the current play equipment and disregarding the other uses and space the village green brings to the residents of this development.
- Currently No play park provision has been made at Linkwood Steading development, due to the layout of the footpaths, we are to assume that the current village green and park at Bain Ave are to accommodate these houses as well. Springfield Property stated that they needed to build a play park for the steadings but this is not on as a condition on their planning approval decision notice.
- This is an area for dog walking which is already limited in the area due to even more reductions in Green space.

#### **Comment (PO):**

- To offset the loss of mature trees at Stonecross Hill (16/01074/APP) the applicant proposed to provide off-site compensatory planting on an area of open space at Bain Avenue ('The Village Green'), which is within the applicant's control. The area at Bain Avenue has already been identified as a suitable location for compensatory planting, as it is within the vicinity of Stonecross and in need of enhancement to improve the amenity value of this 'village green'. As has been identified the planting took place but did not survive, no attempt has been made to replant and although this proposal seeks to provide planting this is not in addition to that which was supposed to be delivered and nor does it override the loss and erosion of greenspace.
- The ENV should function as a Neighbourhood Park not just for the immediate development but also the locality as there is a limited provision of quality open space in the adjoining neighbourhoods. As such the proposed reduction in greenspace here is recognised and the application is recommended for refusal.

#### **Issue: Amenity/Overdevelopment**

- An objector's property is a bungalow and surrounded on 3 sides by other bungalows, the plan to build a two storey dwelling at the side of the property will cause the property to become crowded. If the building must go ahead it would be preferable to build a bungalow to the side of said property rather than a house. (There are single storey dwellings included in the plans).
- Cumulative applications (09/01272/FUL and 14/00938/APP refer) highlight the over capacity of the development from the initial 380 units, to 434 units, exceeding it by 44 units (11%) to 454 units exceeding it by 74 units (14%). With the proposed application increases this to 482 units exceeding the initial 380 by 102 units (20%) The figures show the site is currently exceeding its capacity by 74 units (14%) and

permitting this proposed application would be detrimental to this development due to its overcapacity and reduction of open green space.

**Comment (PO):**

- The preference for a bungalow is noted however the proximity of the proposed affordable units to existing residential units and mix of house types proposed would not lead to an unacceptable loss of amenity sufficient to refuse the application on these grounds. The issue in this case is the loss of an amenity greenspace.
- The additional housing will negatively reduce the size of the overall green space and its ability to function as a neighbourhood park and its ability to adapt to any future recreational needs of the development. As such the application is recommended for refusal. The density of other developments in the locality will have been assessed at the time of their consideration under the planning application process.

**BACKGROUND**

Relevant to the current Hierarchy Regulations and for residential development on a site which exceeds 2 hectares, the proposal would be a major development for planning purposes and was be subject to PAN and pre-application consultation procedures, including a report to committee - 19/00105/PAN refers.

The applicant consulted with Elgin Community Council and held a staffed exhibition at the New Elgin and Ashgrove Public Hall, Elgin on 7 March 2019 prior to submission of this application.

**OBSERVATIONS**

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

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

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

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

In this case objections have been received to the non-inclusion of the site at Bain Avenue and to Policy EP5 Open Space where housing is specifically excluded from what is considered essential community infrastructure and the non-inclusion of the site at Bain Avenue. The proposal is subject to a designated site which will be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below:

**Impact of development upon the ENV designations (Elgin ENV4 Playspace for children and teenagers and ENV3 Amenity, Policy E5, PP3, IMP1 and H1)**

For ENV designations, the governing policy E5 Open Spaces states that development which would cause the loss of, or adversely impact on such areas will be refused unless;

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

Policy E5 also provides standards for the provision of new open spaces in developments (in terms of quantity and quality) to provide recreational, landscape and biodiversity benefits. These include the requirement for residential sites of 10-50 units to have a minimum of 15% open space, and for new space to be:

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

Policy H1 Housing Land allows for new housing on land not designated for residential development within the settlements (i.e. windfall sites) subject to the following requirements:

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

The (amended) proposal is a departure from Policy H1 because the site is designated for an alternative use, not for housing but rather it is subject to an environmental designation. A material change of use would occur with redevelopment, from the Elgin ENV3 designation to residential use. The proposal would also not satisfy the other requirements of Policy H1 and therefore Policy E5.

The proposal is for affordable housing on an area of open ground used as amenity green space. As amended 26 affordable units are to be provided with associated landscaping,



SUDS features including swale running west – east to a detention pond, children's playpark and public art.

The principle of development on this site is not supported as it is an unacceptable departure from Policy E5 Open Space. The loss of ENV is not supported by policy E5 where the exceptions are where a public use is proposed that outweighs the value of the open space; adverse impacts on the recreational, amenity and biodiversity value of the site are minimised; and there is a clear excess of the type of ENV within easy access and the loss will not negatively impact on the overall quality and quantity of open space provision.

Whilst affordable housing has been considered a public use through other applications in this case the proposal does not outweigh the value of the open space affecting hundreds of residences in the Bain Avenue area. The ENV is an important open space within the locality performing a function for the wider neighbourhood. The site should perform the role of a Neighbourhood Park and a reduction in size with no meaningful improvements in quality and function would diminish this role and reduce recreational opportunities.

A quality audit exercise has been undertaken and the findings reported back to the developer who has chosen to amend the proposals to address concerns raised.

The revised layout submitted made some minor improvements and these include the reorientation of plots 5-8 to front the street and the introduction of swales. While the changes are the introduction of swales are improvements they are not sufficient to remove the objection in principle. The revised layout also shows a kickabout area located in between the SUDS pond and the playpark which is a requirement for a Neighbourhood Park as set out in the Open Space Strategy SG.

The ENV should function as a Neighbourhood Park not just for the immediate development but also the locality as there is a limited provision of quality open space in the adjoining neighbourhoods. While the requirement of a kickabout area has now been provided, it is not enough to remove the objection as the loss of open space from this important ENV (0.86 ha) to be taken up for additional housing which will not allow the open space to function as a Neighbourhood Park sufficiently as set out in the Open Space Strategy SG. Furthermore, the function of the ENV has not changed drastically with minimal improvements in terms of quality and function as the existing playpark has only been relocated, the proposed planting should already be provided to compensate for the loss of woodland at Waulkmill Grove, and the reduction in size of the ENV will limit the flexibility of the ENV to adapt to any future recreational needs of the development.

In relation to PP2 Sustainable Economic Growth, the proposed development would see the erosion of designated ENV greenspace for multiple developments in the area which cannot be offset or mitigated against.

In relation to PP3 Placemaking the revised layout has sought to address several of the concerns raised in the Quality Audit (QA). It scored as follows;-

DESIGN PRINCIPLE	AUDIT
Connections	
Public Transport	
Safer Environment	
Car Parking	
Legibility/Street Hierarchy	
Character & Identity	
Housing Mix	
Access to Facilities and Amenities	N/A
Natural Features	
Open Space	
Biodiversity	
Landscaping	

While these improvements are welcomed the proposal still fails to comply with Placemaking Policy PP3. The proposed development is not considered to accord with the principles of Designing Streets, etc. through appropriate design/siting, provision of a positive street frontage with low front hedge boundary treatment, private backs, good connectivity with surrounding housing and landscaping/open space.

The QA highlighted that there was an issue with the majority of housing not fronting the street. While plots 5-8 have been moved, the QA raised concerns with the row of houses next to the open space as to how they could provide a frontage to both the open space and street. The QA suggested that housing with dual frontages should be provided so that surveillance would be provided over both the street and open space. This was seen as a fundamental design issue and does not seem to have been addressed in the revised layout.

The QA also highlighted concern with the open space available. As a result and despite efforts to create a communal kickabout area the space taken up for the additional housing will negatively reduce the size of the overall green space and its ability to function as a neighbourhood park and its ability to adapt to any future recreational needs of the development.

For the above reasons the proposal fails to comply with Policy Policy E5, PP3, IMP1 and H1.

### **Affordable Housing (H8)**

Any proposal that contributes to the housing stock, and especially affordable housing, is acknowledged as being of merit. Appropriate weighting is given to the contribution this proposal would make in meeting the demand for affordable housing.

The site is not within the Council's Strategic Housing Investment Programme (SHIP). Investment in affordable housing is largely dependent on the level of resources from Scottish Government and this is acknowledged within the Local Housing Strategy (LHS). The LHS 5yr supply target in the Elgin Area is 618 affordable houses. The barrier to meeting this target is not land, it is finance. The SHIP forecasts 267 completions in the Elgin Area 2020/2021, with 233 of these in Elgin. Sufficient land is designated in Elgin, including land within the applicant's control that has planning consent, where delivery of affordable housing must be prioritised before consideration is given to eroding open space that was intended to meet the needs of previous development.

The proposal sits within an area where the provision of affordable housing in the wider locality has already been met (and indeed exceeded, by the approvals such as 09/01272/FUL as varied and 14/00398/APP which have increased the amount of affordable house units).

In affording merit to the proposed affordable housing it should not be used as leverage to improve an existing open space where there has been a lack of maintenance and/or investment. Existing open spaces are an important asset for communities and should not be eroded or reduced.

### **Flood Risk (EP7)**

The aim policy EP7: Control of Development within Flood Risk Areas is to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. It also stated that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere.

The proposal site is at risk from surface water flooding and The Moray Flood Risk Management team required further information to be submitted in the form of a Flood Risk Assessment and updated drainage statement along with suitable mitigation measures to address the existing flood risk.

A significant body of objection was received in relation to this issue with a number of objectors submitting images of surface water flood events on the playing fields and surrounding streets. In response to this the applicant's confirmed that this had been a localised and extreme event dating from 2014 prior to full implementation of drainage infrastructure and whilst other development was continuing.

Following consideration of the additional information no objection has been raised and the proposed development complies with EP7.

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

The site is at risk of pluvial flooding. In order to meet the requirements of policies EP5 and IMP1 proposed surface water drainage arrangements would include provision of on-site attenuation measures i.e. filter trenches and storm water drainage etc. designed and sized to ensure that all surface water is discharged onsite via swale to SUDS pond. These arrangements are supported by a Drainage Assessment, relevant calculations and plans and have been assessed by the Flood Risk Management section and have been confirmed as acceptable. As it stands the proposal complies with Policy EP5.

The houses would also connect to the public water supply and foul drainage network, in line with policy EP10.

Scottish Water has provided comments following consultation on this application. The responsibility rests with the applicant to obtain the necessary consents from Scottish Water regarding any connections to the surrounding Scottish Water network.

### **Access and Parking (T1 & T2)**

The proposal (as amended) is considered to be acceptable in terms providing safe access and parking in accordance with Policies T2 and T5. The Transportation Manager has considered all of these issues as part of the application but does not object to the proposal

on road safety, traffic congestion or parking grounds subject to conditions and informative notes being attached to the planning consent if permitted.

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

As from 14 October 2016, the Council has adopted Supplementary Guidance on developer obligations as a material consideration in the determination of planning applications.

Developer Obligations assessment carried out in relation to current Local development plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities and a new primary school at Linkwood. A unilateral instrument of Planning Obligation will be required to secure these contributions.

### **Conclusion and Recommendation**

On the basis of the above assessment and for the reasons stated it is considered that the proposals breach policies IMP1: Development Requirements, PP3: Placemaking, H1: Housing, E5 Open Spaces and should therefore be refused on this basis. This is taking into consideration the benefits that the provision of the affordable housing would have, but which do not outweigh the other departure matters discussed elsewhere in the Observations Section.

**Author/Contact  
Officer:**

Craig Wilson  
Planning Officer

**Ext:** 01343 563565

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

## **APPENDIX**

### **POLICY**

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

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

#### **PP1 PLACEMAKING**

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;
  - (i) **Character and Identity**
    - Create places that are distinctive to prevent homogenous 'anywhere' development.
    - For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
    - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.
    - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
    - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic

environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

**(ii) Healthier, Safer Environments**

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

**(iii) Housing Mix**

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

**(iv) Open Spaces/Landscaping**

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of



policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

**(v) Biodiversity**

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

**(vi) Parking**

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor

- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

**(vii) Street Layout and Detail**

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

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

**PP2 SUSTAINABLE ECONOMIC GROWTH.**

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

**PP3 INFRASTRUCTURE & SERVICES.**

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and

new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

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

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

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

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

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

**c) Harbours.**

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

**d) Developer Obligations.**

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

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

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

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District

Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

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

## **DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

### **(i) Design**

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

- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
  - g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
  - h) Existing stone walls on buildings and boundaries must be retained.
  - i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain
- (ii) **Transportation**
- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
  - b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
  - c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
  - d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
  - e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.



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

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

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

- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

## **DP2 HOUSING.**

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

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

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

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

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

### **c) Housing density**

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

### **d) Affordable Housing**

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

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

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

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

### **e) Housing Mix and Tenure Integration**

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

Proposals must demonstrate tenure integration and meet the following criteria;

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

### **f) Accessible Housing**

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

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

## **EP5 OPEN SPACE.**

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

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

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

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

Proposals for allotments or community growing on existing open space will be supported where they do not adversely affect the primary function of the space or the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance and a locational requirement has been identified in the Council's Food Growing Strategy.

Consideration will include related aspects such as access, layout, design and car parking requirements.

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

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

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

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

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

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

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

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

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

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

**Accessible and well connected.**

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

**Attractive and Appealing Places.**

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

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

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

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

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

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

- Safe and welcoming.
- Good levels of natural surveillance.
- Discourage anti-social behavior.

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

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

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

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

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

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

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

## **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.

## **ENVIRONMENT/GREEN INFRASTRUCTURE**

Open space that contributes to the environmental amenity of Elgin will be safeguarded from development that is not related to its current use as set out in the table below. Where available the audit site reference from the Open Space Strategy is given in brackets:

### **ENV1: Public Parks and Gardens**

Maggot Wood (EL/OS/011), Doocot Park (EL/OS/014), Biblical Garden (EL/OS/025), Cooper Park (EL/OS/027), Seafield (EL/OS/033), Mayne/Bilbohall (EL/OS/041)

### **ENV2: Amenity Greenspace**

Bain/McMillan Avenue (EL/OS/006), Fairway Avenue (EL/OS/007), Waulkmill Grove (EL/OS/016), Spynie Brae/Cove sea Rise (EL/OS/036), Milnfield Avenue (EL/OS/039), Hardhillock (EL/OS/047), Fraser Avenue (EL/OS/052), Pinefield (EL/OS/054), Moray College, The Oaks, Southfield/Thornhill Drive, Linkwood Steading Amenity, Duffus Heights Amenity Area, Kintrae Crescent, Birnie Road

### **ENV3: Playspace for Children and Teenagers**

Greenwards Playspace (EL/OS/002), Glassgreen Playspace (EL/OS/004), Bain/McMillan Avenue (EL/OS/006), Kingsmill Playspace (EL/OS/022), School/Dyke Walk (EL/OS/031), Nelson Square (EL/OS/037), Calcots Crescent (EL/OS/043), McBeath Avenue (EL/OS/044), Reynolds Crescent (EL/OS/045), Esmonde Gardens (EL/OS/049), Ferrier Terrace (EL/OS/050), McIntosh Drive (EL/OS/053), Pinefield (EL/OS/054), Manitoba (EL/OS/056), Bisset Beat, Gleneagles Drive, Kintrae Crescent, Duffus Crescent

### **ENV4: Sports Areas**

Linkwood Playing fields (EL/OS/003), Pinefield Playing fields (EL/OS/009), Deanshaugh (EL/OS/028), Morriston Playing Fields (EL/OS/051), Elgin Golf Course, Driving Range, Elgin Academy/Bishopmill Primary School, Westend Primary School, Seafield Primary School, Eastend Primary School, St Sylvesters, New Elgin Primary School

### **ENV5: Green Corridors**

East Road (EL/OS/008), Sandy Road (EL/OS/020), Thornhill (EL/OS/046), Myreside Circle (EL/OS/048), Reiket Lane (EL/OS/055), Reiket Lane/Ashgrove Road Cycle Path (EL/OS/057), Lossiemouth Road (EL/OS/59), Borough Briggs (EL/OS/060), Lesmurdie

(EL/OS/063), River Lossie Corridor and Cyclepath (EL/OS/064), Linkwood Burn (EL/OS/078), Linkwood Path (EL/OS/079), Old Railway Elgin South (EL/OS/080), Morriston Road (EL/OS/084), Glassgreen

#### **ENV6: Natural/Semi-Natural Greenspace**

Lesmurdie House (EL/OS/010), North East Amenity Land (EL/OS/012), Wards Wildlife Site (EL/OS/013), South and East of Spynie Hospital (EL/OS/018), Marleon/Lesmurdie Wood (EL/OS/021), Lesmurdie Wood (EL/OS/026), Palmers Cross (EL/OS/042), Sherriff/Old Mills (EL/OS/061), Kockmasting Wood (EL/OS/067), Findrassie Woods (EL/OS/068), Quarrelwood (EL/OS/072), Mayne Wood (EL/OS/075), Birkenhill (EL/OS/077), Oakwood/Quarrelwood (EL/OS/081), Bogs of Linkwood, Hallowood/Moss of Barmuckity

#### **ENV7: Civic Space**

Ladyhill (EL/OS/040), Elgin Cathedral

#### **ENV8: Allotments**

Part of ENv4 at Pinefield Playing fields (EL/OS/009)

#### **ENV9: Cemeteries and proposed extensions**

Elgin Cemetery (Linkwood Road) (W), Elgin Cemetery (Linkwood Road) (E), New Cemetery (Elgin South)

#### **ENV11: Other Functional Greenspace**

Hamilton Gardens SUDs.

### **WIDER ENVIRONMENTAL DESIGNATIONS:**

#### **CAT: Countryside Around Towns**

Protects the area around the town from development

#### **CA: Conservation Area**

Elgin High Street Conservation Area, Elgin South Conservation Area

#### **TPO: Tree Preservation Order**

The College King Street, Linkwood, East Road, Reiket Lane, Oakbank Duffus Road, Dunkinty House, Lesmurdie Road, Dunbarney House West Road, Mayne Farm Road, and Pluscarden Road.

#### **SLA: Special Landscape Area**

Quarrelwood; and Spynie

## ***Moray Local Development Plan 2015 - Material Consideration***

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

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

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

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

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

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

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

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

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour

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

## **Policy H1: Housing Land**

### **Designated sites**

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

### **Windfall sites within settlements**

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

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

## **Housing Density**

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

### **Policy IMP1: Developer Requirements**

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.

- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

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

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

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

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

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing

infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and

- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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

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

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

### **ENV3: Amenity Greenspace**

East road verges- A96, Glenmoray Drive, Lesmurdie House, New Elgin Rd, Milnefield Avenue, Reiket Lane, Thornhill Road, A941 verges/Lossmouth Road, Bain/Mcmillan Avenue, Pinefield, Fraser Avenue/Mackenzie Place, A941 verges/Main Street, Fairway Avenue. Policy E5 applies.

### **ENV5: Sports Areas**

Eastend school, Westend School, New Elgin School, Seafield School, Bishopmill School/Elgin Academy, Morriston playing fields, Thornhill playingfields, Tyock/Pinefield playing field. Policy E5 applies.

### **ENV4: Playspace for Children and Teenagers**

Kennedy Place/Spynie Brae, Fairy Park/Bilbohall, Nelson Square (Bishopmill), Lesmurdie, Bain/Mcmillan Avenue, Mcmillan Avenue/Calcots Crescent, Mcbeath Avenue, Birnie Road, McIntosh Drive, Ferrier Terrace, Reynolds Crescent, Marleon Field, Cove Sea Rise/Findrassie Court, Esmonde Gardens, Pinegrove, Manitoba Avenue, Robertson Drive, Hardhillock/High School View, Greenwards School. Policy E5 applies.