



Planning and Regulatory Services Committee

Tuesday, 18 January 2022

SUPPLEMENTARY AGENDA

The undernoted reports have been added to the Agenda for the meeting of the **Planning and Regulatory Services Committee** to be held at **Remote Locations via Video-Conference**, on **Tuesday, 18 January 2022** at **09:30**.

BUSINESS

- | | |
|---|----------------|
| 4a) Minute of Special Meeting dated 9 December 2021 | 3 - 14 |
| Guidance Note | 15 - 16 |
| 5a) Planning Application 21/01272/APP | 17 - 48 |
| Report by Appointed Officer | |
| Formation of 15 car parking spaces on Land Adjacent To Sports Pavilion Cameron Park East Beach Road Hopeman for Moray Council | |

**MINUTE OF MEETING OF THE PLANNING AND REGULATORY SERVICES
COMMITTEE**

09 DECEMBER 2021

VARIOUS LOCATIONS VIA VIDEO-CONFERENCE

PRESENT

Councillors D Bremner (Chair), A McLean (Depute Chair), Brown, Cowe, Edwards, Feaver, Macrae, R McLean, Nicol, Ross, Taylor and Warren.

APOLOGIES

Apologies for absence were intimated on behalf of Councillors Cowie and Powell

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Ms L Macdonald, Senior Planning Officer, Legal Services Manager and Democratic Services Manager as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Divers declared a personal interest in agenda items 3 "Planning Application 21/00206/APP" and agenda item 4 "Planning Application 21/00396/APP".

There were no other declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

2. ORDER OF BUSINESS

In terms of Standing Order 28 the meeting agreed to vary the order of business and take Item 4 Planning Application 21/00396/APP as the first item of business.

3. PLANNING APPLICATION 21/00396/APP

Ward 4 – Fochabers Lhanbryde

Plot substitutions at no's 1 to 43 and 47-50 (total no of plots are decreased from 47 to 35 and proposed to be renumbered 301 - 319 and 401- 413) (permissions 18/01209/APP and 16/01244/APP) Glassgreen Elgin South Elgin Moray for Springfield Properties PLC

Item 4a)
It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application has previously been reported to Committee and the appointed officer considers that the proposals contains significant amendments that Committee may wish to re-consider. Namely the relocation of the commercial units.

Mr MacPherson, Principal Planning Officer clarified to the Committee an issue in relation to the numbering of the plots as described within the application and advised that following a review of the numbering this would now be simplified and would be amended to read 301 – 335 and should the Committee be minded to approve the application a condition would be imposed to clarify the numbering of those plots. In addition he further advised that should the application be approved this will be subject to a modification of the existing Section 75 Legal Agreement for Elgin South.

Following discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 20/00396/APP subject to:

- (i) a modification of the existing Section 75 Legal Agreement for Elgin South; and
- (ii) the following conditions and reasons:
 - 1 The development hereby granted forms part of, and is related to, a development granted planning permission under formal decision notice 16/01244/APP dated 10 May 2018 wherein:
 - a) the terms and conditions as attached to the permission granted under formal decision notice 16/01244/APP are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, in particular Conditions 13-22, 24, 27, 30, 34, 39-41, 50, 52, 53-56 inclusive (or as amended under 18/01209/APP approved on 16 May 2019), including any details already approved thereunder to discharge the requirements of the identified conditions; and
 - b) no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plot substitutions at plots 1-43 and 47-50 (total no of plots are decreased from 47 to 35 and proposed to be renumbered 301-322, and 323-335).

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

2. Notwithstanding the EV Charging details shown on Drawing Number EL02_PL_SL_14 Rev B which are not accepted, no development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and

details prior to the first occupation of the dwelling house.

Item 4a)

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

3. Parking provision for houses shall be provided at the following rates:
- 1 Bedroom = 1 space
 - 2-3 Bedrooms = 2 spaces
 - 4 or more bedrooms = 3 spaces
 - 1 secure covered cycle parking space shall be provided per flat

Parking shall be provided prior to the completion of each house which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

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

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

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

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

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

4. PLANNING APPLICATION 00206/APP

Ward 4 – Fochabers Lhanbryde

Application under S42 to vary condition no 2 of planning permission 18/01209/APP - phasing to reflect updated masterplan 2021 along with revisions to layout and substitution of Plots 122 to 129 at Elgin South Elgin Moray for Springfield Properties PLC

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application under S42 to vary condition no 2 of planning permission previously approved by Committee decision under application reference 18/01209/APP – phasing to reflect updated masterplan 2021 along with revisions to layout and substitution of Plots 122 to 129 at Elgin South Elgin Moray for Springfield Properties PLC.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application has previously been reported to Committee and the appointed officer considers that the proposals contain significant amendments for Committee to re-consider. Namely the Section 42 revision to phasing across the whole Elgin South 18/01209/APP consent and the relocation of the commercial units.

Mr MacPherson, Principal Planning Officer referred the Committee to a previous condition relating to the overall Elgin South consent that no development shall commence beyond 295 houses, a Sports Centre and (Linkwood) Primary School as defined on revised Phasing Plan phases 1A and 1B) until either a bypass is in place or a transport assessment is submitted for each of these phases to identify capacity within existing road network. He further advised that as that stage has already been reached Transport Scotland had asked that this condition be re-iterated within this application in terms of phasing and should the Committee be minded to approve the application he would recommend that this condition be included. In addition he further advised that should the application be approved this will be subject to a modification of the existing Section 75 Legal Agreement for Elgin South.

Following discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 21/00206/APP subject to :-

- (i) a modification of the existing Section 75 Legal Agreement for Elgin South; and
- (ii) the following conditions and reasons:
 1. The development hereby granted forms part of, and is related to, a development granted planning permission under formal decision notice 16/01244/APP dated 10 May 2018 wherein:
 - a) the terms and conditions as attached to the permission granted under formal decision notice 16/01244/APP are hereby re-iterated and remain in

force in so far as they relate to the development hereby approved, in item 4a) particular Conditions 13-22, 24, 27, 30, 34, 39, 40, 51, 53-56 inclusive (or as amended under 18/01209/APP approved on 16 May 2019), including any details already approved thereunder to discharge the requirements of the identified conditions; and

- b) no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 122 to 129.

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

2. Notwithstanding the submitted 'Phasing Plan' superseding the phasing referred to in condition 2 of planning permission 18/01209/APP, no development shall commence on the area covered by Moray Local Development Plan 2020, Elgin Settlement Statement designation CF4 Glassgreen Primary School until such time as Moray Council, as planning authority, have confirmed in writing to the applicant that it is satisfied that an alternative school site has been secured elsewhere. Thereafter the development of the CF4 designation must be carried out in accordance with the updated 'Phasing Plan' hereby approved.

Reason: In order to ensure that the currently designated CF4 school site is put to no other use until an acceptable alternative school site at Glassgreen has been investigated, and ensure Moray Council retain control over the adequate provision of the school site.

3. Prior to development starting, details of the 0.9m stone wall, adjoining the apartment on plots 131-136 must be submitted to and approved in writing by Moray Council as Planning Authority. The wall must be constructed and completed prior to the first occupation of the flats.

Reason: In order that further consideration of the proposed boundary treatment.

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

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

5. Parking provision for houses shall be provided at the following rates:
- (i) 1 Bedroom = 1 space.
 - (ii) 2 -3 Bedrooms = 2 spaces.
 - (iii) 4 or more bedrooms = 3 spaces.
 - (iv) Parking for flats (Plots 131-136) shall be provided as shown on Drawing EL02_PL_SL_07 including provision of 6 bicycle stores and 2

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

6. Parking shall be provided prior to the completion of each house which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

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

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

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

9. No development shall commence beyond 295 residential units plus Moray Sports Centre and (Linkwood) Primary School as defined on revised Phasing Plan phases 1A and 1B) until:

a) details (which may include evidence from Transport Scotland) have been submitted to the Council, as Planning Authority to confirm that the Trunk Roads Authority has completed the upgrading and realignment of the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme;

OR

b) a Transport Assessment for each sub-phase has been submitted to the Council, as Planning Authority and that any trunk road mitigation measures necessary to off-set the impact of the sub-phase have thereafter been implemented in accordance with a timescale identified by the Transport Assessment to the satisfaction of the Council, as Planning Authority in consultation with Transport Scotland.

Reason - To ensure that the scale of development beyond Phase 1A is supported by a Transport Assessment, and to ensure that the scale and operation of the proposed development sub-phases beyond Phase 1A do not adversely affect the safe and efficient operation of the A96 trunk road network.

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

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

5. PLANNING APPLICATION 21/01487/APP

Ward 4 – Fochabers Lhanbryde

Amend house design approved under ref 15/00244/APP on Plot 8 Ordiequish Fields Ordiequish Road Fochabers Moray for Bob Milton Properties Ltd.

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for planning permission for a new house type on a development previously approved by Committee decision under application reference 15/00244/APP (for the erection of 49 dwelling houses on R1 Ordiequish Road, Fochabers).

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application proposes a new house type on a development previously approved by Committee decision under application reference 15/00244/APP (for the erection of 49 dwelling houses on R1 Ordiequish Road, Fochabers).

Mr Smith, Principal Planning Officer advised a further condition should be included to cover the installation of fibre broadband to the property in line with Policy PP3 – Infrastructure and Services, part vii of the Moray Local Development Plan 2020 which had been omitted from the application. He further advised that the applicant has agreed to this condition.

Following discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 21/01487/APP subject to the following conditions and reasons:

1. The development hereby granted for Plot 8 forms part of a development granted planning permission under formal decision notice 15/00244/APP dated

26 November 2015, and the conditions attached thereto are hereby re-iterated Item 4a) insofar as they relate to the development hereby granted.

Reason: To ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area for the respective reason given for the conditions.

2. No development works shall commence on the dwelling house until details (written proposals and/or plans) have been submitted to and approved in writing by the Council, as Planning Authority to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the proposed EV charging point location. Thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house.

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

3. Three car parking spaces shall be provided within the site prior to the occupation or completion of the dwelling house, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council, as Planning Authority.

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

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

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

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

Reason: To ensure acceptable development in the interests of road safety.

6. The garage shall only be used for domestic purposes incidental to and ancillary to the use of the dwelling house as such.

Reason: In order to ensure that the garage is used for domestic purposes only.

7. Notwithstanding the submitted details, there shall be no window openings (including roof light openings) on the west side elevation or the west roof slope of the domestic garage hereby approved as part of Plot 8. This restriction shall apply throughout the lifetime of the development unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: In order to ensure an acceptable form of development and to protect residential amenity of neighbouring occupiers. (Item 4a)

8. No development works shall commence on the dwelling house until details (plans and elevations including material specification) have been submitted to and approved in writing by the Council, as Planning Authority showing the precise location and design of the 600mm boundary wall to be provided on the north and east boundaries, and any other proposed boundary treatment along the south and west boundaries. Thereafter the development must be carried out in accordance with the agreed details.

Reason: In order to provide details currently lacking and in order to ensure an acceptable form of development.

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

Reason: To ensure the dwellinghouse hereby approved is served by appropriate high speed internet connections, in accordance with policy PP3 – Infrastructure and Services, part vii of the Moray Local Development Plan 2020.

6. PROPOSAL OF APPLICATION NOTICE 21/01750/PAN

INSTALLATION OF A BATTERY ENERGY STORAGE SYSTEM (BESS) INCLUDING SITING OF BATTERY CONTAINERS, POWER CONVERSION UNITS AND TRANSFORMERS, A SUBSTATION, HARDSTANDING AREA, FENCING VEHICULAR ACCESS, GRID CONNECTION AND ANCILLARY WORKS ON LAND AT DRUM FARM, KEITH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 4 November 2021 on behalf of Renewable Energy Systems Ltd.

During her introduction, Ms Lisa MacDonald, Senior Planning Officer advised the Committee that the proposal relates to a proposal for a battery energy storage scheme which will include inverters and transformers, grid connection container and compound with fencing, drainage and other associated development and is located to the south east of the substation on Westerton Road, Keith. The site is on the eastern edge of Keith and is bounded by fields to the north, south and west. The site is accessed by tracks running to the north and west which are core paths. Vehicular access is proposed from the U35H to the north of the site and west of Drum Farm. The development is within the Countryside Around Town (CAT) around Keith as identified in the Moray Local Development Plan 2020. Mill Wood SSSI is approximately 1km to the east of the site.

The submission states that the development would have a capacity of up to 49.99 MW therefore under the current hierarchy regulations the proposal would comprise a major development for planning purposes. She further advised that the proposal will be

subject to PAN and pre-application consultation procedures with the local community (Item 4a) and that the applicant has already engaged with the Keith and Strathisla Community Councils and will be holding on line public events which are acceptable in terms of the current emergency regulations that are in place for PAN events.

Following consideration, there being no matters raised, the Committee agreed to note the terms of the report.

7. PROPOSAL OF APPLICATION NOTICE 21/01817/PAN

REDEVELOPMENT INCLUDING A NEW SAWMILL, LOG SORTING LINE ALONG WITH TIMBER YARD AT JAMES JONES AND SONS LTD, GARMOUTH ROAD, MOSSTODLOCH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 18 November 2021 on behalf of James Jones and Sons Ltd.

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee that the proposal relates to an extension to, and re-development of, an existing sawmill site at Garmouth Road, Mosstodloch and the proposed site lies to the immediate north of the existing, long established sawmill site and outwith the settlement boundary of Mosstodloch as designated in the 2020 Adopted Moray Local Development Plan. He further advised that the proposed development will comprise new sawmill, log sorting line and timber storage yard; and new access from B9015 road, widening of this road and provision of new shared cycle/foot way alongside. Office and weighbridge facilities are also proposed. Surface water to be drained and treated through three levels of treatment including solids interceptors, SUDS ponds Swales and wetland area with high level overflow proposed to the River Spey for extreme weather events. Landscaped bunding/screening and planting is proposed around the perimeter of the proposed development.

As the proposal would be a major development in terms of the current Hierarchy Regulations (development site which exceeds 2 hectares) and would constitute a major development for planning purposes, the proposal will be subject to PAN and pre-application consultation procedures with the local community.

Councillor Brown sought clarification on whether any comment should be made in relation to the high level overflow proposed to the River Spey for extreme weather events or whether this should be left to SEPA to comment upon.

In response Mr MacPherson, Principal Planning Officer advised that whilst the purpose of the report was to glean any feedback from Elected Members to the applicant and in response to the question raised by Councillor Brown any future application that comes forward would require to have a very detailed drainage and impact assessment with an explanation on how they would intend to deal with surface water. He further advised that there would also have to be built into the proposal a significant freeboard or excessive capacity built into the systems to account for flood events and climate change. In regard to the issue relating to any overflow into the River Spey, any application would be subject to consultation with SEPA who would give it very thorough consideration. In light of the observation by Councillor Brown he advised that feedback could be provided to the applicant that we would wish any application to fully explain how the River Spey would be protected from an overflow from the development if it were required with evidence of how that would work and how it would

be managed sensitively.

Item 4a)

Following consideration the Committee agreed to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:

- In regard to drainage indicate the need to fully explain how the River Spey would be protected from an overflow from the development if it were required with evidence of how that would work and how it would be managed sensitively.



**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE
MEETING OF 18 JANUARY 2022**

REPORT ON APPLICATION

“Note for guidance of the Committee where the decision of the Planning and Regulatory Services Committee is contrary to the recommendations of the Director of Environmental Services in respect to a Planning Application.”

Any Councillor putting forward a motion to refuse an application, contrary to recommendation, shall clearly state the reasons for refusal. These reasons should be based on policies contained in the approved Local Development Plan or some other material consideration. Time should be allowed to ensure that these reasons are carefully noted for minuting purposes.

Where Councillors put forward a motion to approve an application, contrary to recommendation, an indication should be given of any specific matters which should be subject of conditions along with reasons which should be based on policies in the approved Local Development Plan or some other appropriate consideration.

Note for guidance where the decision of the Planning and Regulatory Services Committee is to depart from the Local or Structure Plan.

Where a Councillor is convinced that there is reason to depart from Local Development Plan policy; then the Councillor’s reasons for making the motion should be clearly stated for minuting purposes. Any matters which should be subject to conditions drafted subsequently by the Director of Environmental Services should be indicated. If the Committee remains of a mind to approve such an application then the whole matter will be subject to statutory procedures as apply. In such cases, Councillors should be aware that the application may require to be advertised as a departure and any objections reported to the next available meeting of the Planning and Regulatory Services Committee. It also may be necessary to convene a hearing to consider the views of objectors.

There are three potential consequences if Committee takes a decision where the proper procedures have not been followed in whole or in part. Firstly, the person aggrieved by a decision may apply to the Supreme Courts in Scotland for an Order either compelling the Council to act according to law, quashing the decision altogether or declaring a decision to be unlawful coupled with an order to prevent the decision being implemented. A referral to the Supreme Courts in these circumstances is known as applying for Judicial Review.

Secondly, in addition to the application for Judicial Review when questions of alleged failure, negligence or misconduct by individuals or local authorities in the management of public funds arise and are raised either by or with the External Auditor of the Council and where an individual can be blamed the sanctions available are:-

Censure of a Councillor or an Officer

Suspension of a Councillor for up to one year

Disqualification of a Councillor for up to five years

In the case of the Council being to blame, recommendations may be made to the Scottish Ministers about rectification of the authorities accounts. Ministers can make an order giving effect to these recommendations.

Thirdly, whilst the Ombudsman accepts that Planning authorities have the freedom to determine planning applications as they wish procedural impropriety may be interpreted as maladministration. This can also lead to recommendations by the Ombudsman that compensation be paid.

Consistent implementation of departure procedures maintains public confidence in the planning system and is consistent with the time and effort invested in preparing the Local Development Plan.

WARD 05_17

21/01272/APP
12th October 2021

**Formation of 15 car parking spaces on Land Adjacent To
 Sports Pavilion Cameron Park East Beach Road
 Hopeman
 for Moray Council**

Comments:

- The application is reported to Committee because the appointed officer considers that the application raises matters of wider community interest and/or planning significance.
- The application has been advertised as a departure from the development plan.
- 21 representations have been received.

Procedure:

- None

Recommendation **Grant Planning Permission - Subject to the Following:-**

Conditions/Reasons

1. Prior to development commencing, details of appropriate landscaping around the car parking must be submitted to, and approved in writing, by Moray Council as Planning Authority.

The landscaping must thereafter be planted in accordance with the approved landscaping details within 1 year of the parking being completed. If the landscaping fails to establish, is damaged or dies within the first 5 years of consent being issued, any plants must be replaced.

Reason – In order to ensure the development is suitably landscaped and to enhance the location.

Reason(s) for Decision

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

The proposal is considered to be an acceptable departure from Moray Local Development Plan 2020 (MLDP) policy EP5 Open Space and designation ENV4 (Hopeman Cameron Park) on the basis the proposed parking would not erode the overall recreational function of the sports facilities, whilst allowing for increased parking provision in the area. Consequently the proposal is also considered to be an acceptable departure from policy EP3 Special Landscape Areas.

The proposal complies with all other relevant policies in the MLDP on the basis it is designed and sited at a level suitable to the character of the surrounding area, whilst also being a suitable parking arrangement and served by suitable surface water drainage. There are no material considerations that indicate otherwise.

List of Informatives:

The TRANSPORTATION MANAGER has made the following comments:-

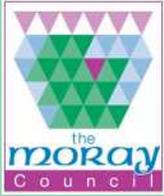
Planning consent does not carry with it the right to carry out works within the public road boundary.

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

The applicant should note that the proposed parking is to be located beyond the extents of the Public Road, and the parking shall not be adopted by the Roads Authority.

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
RTIF-HOPE-003	Car park elevations
RTIF-DET-003	Surface specifications
RTIF-HOPE-002	Path details
RTIF-DET-002	Path specifications
RTIF-HOPE-002	Rain garden elevations
RTIF-HOPE-001	Site layout plan
RTIF-HOPE-005	Site location plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
21/01272/APP

Site Address:
Land Adjacent To Sports Pavilion Cameron Park
East Beach Road Hopeman

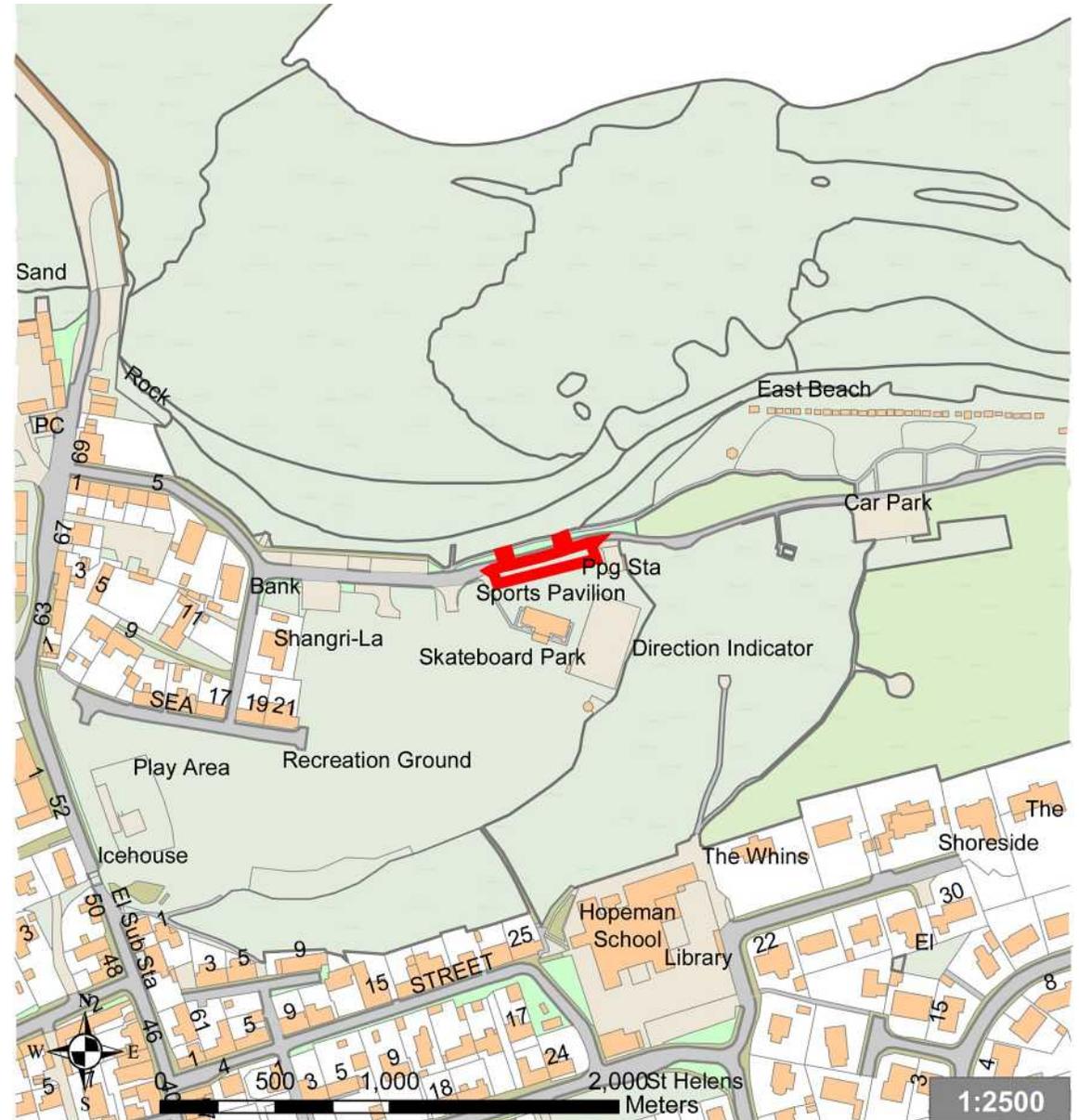
Applicant Name:
Moray Council

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.

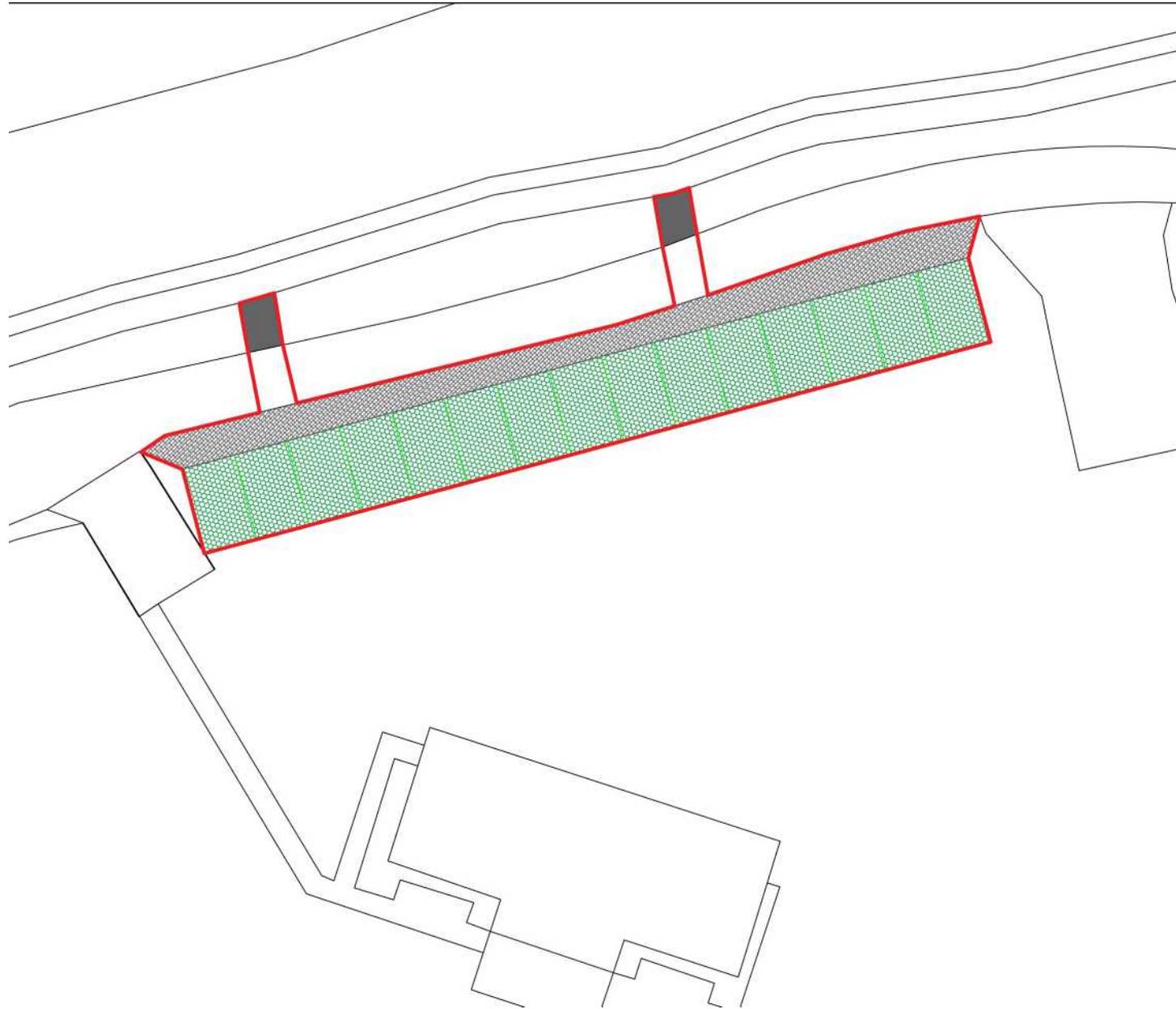
Further copies must not be made without the prior permission of the copyright owner.

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.

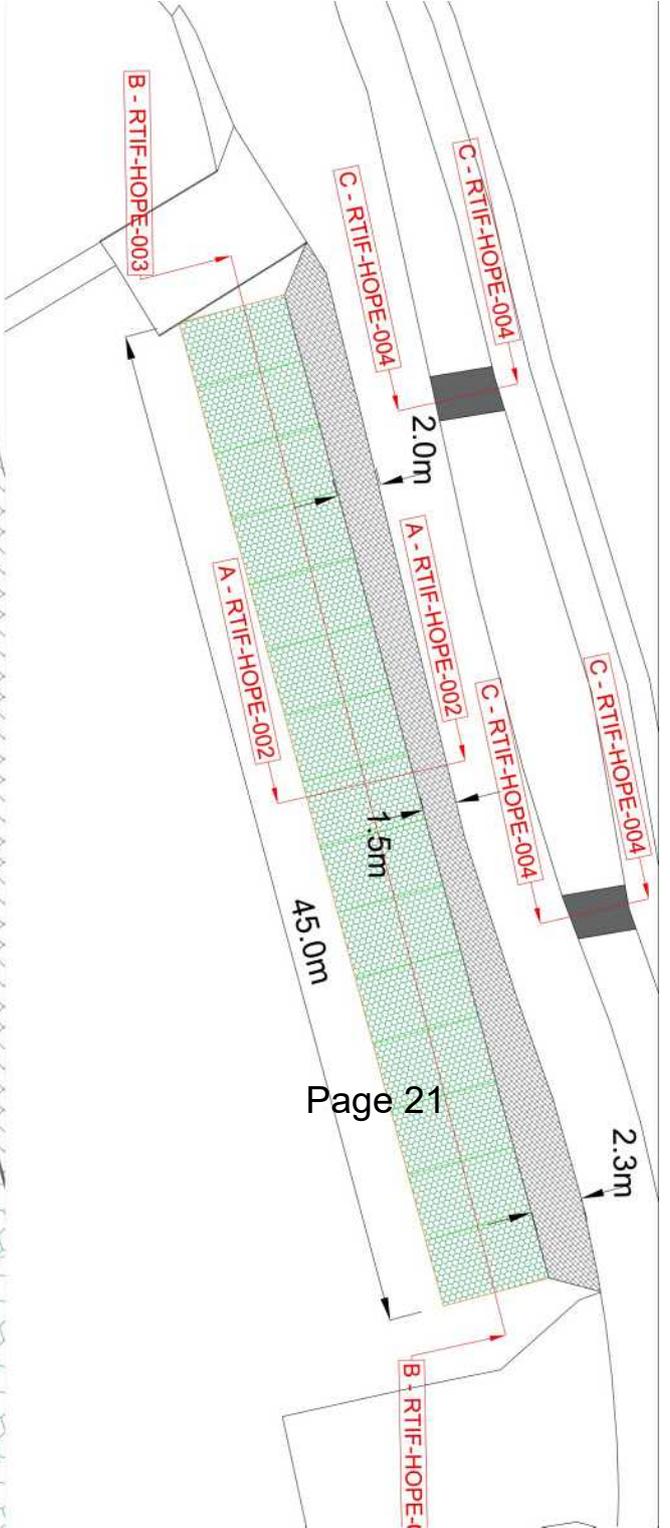
Location Plan



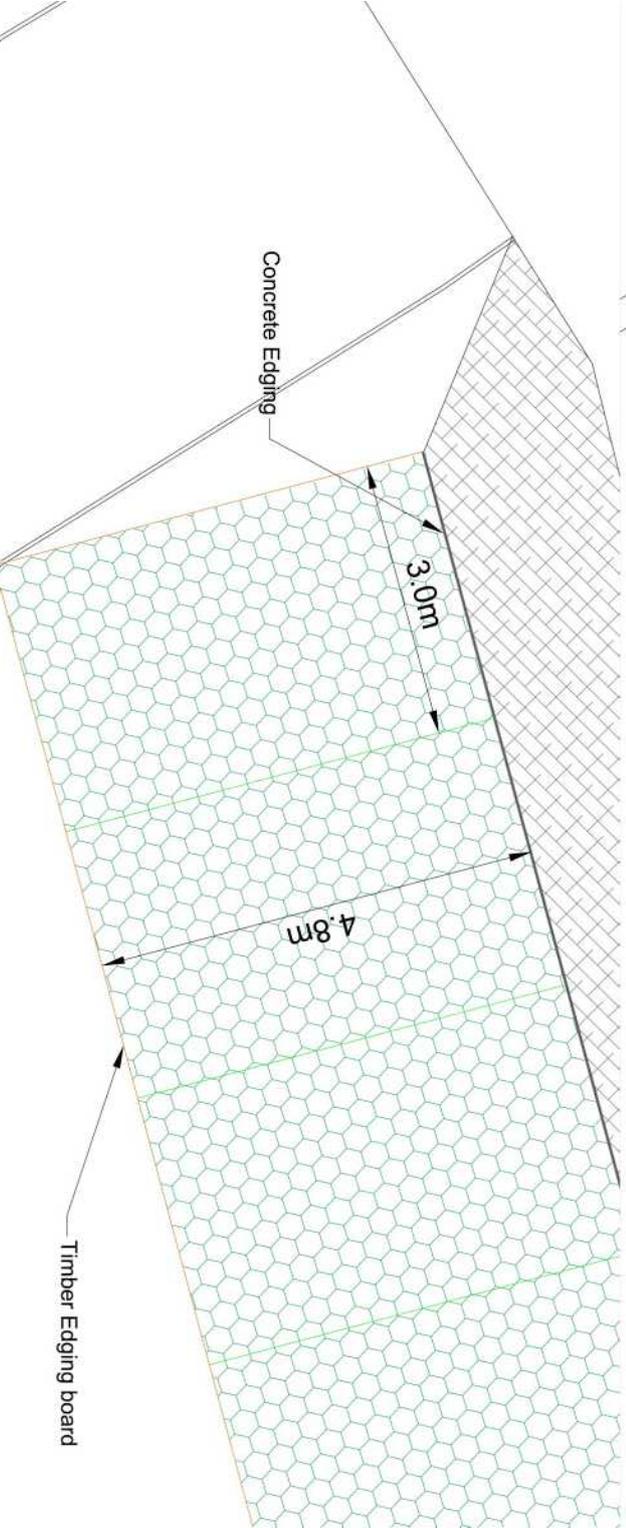
Site Location



Site layout



Page 21



21/01272/APP - Photograph Positions



PROHIBITED FOR THE USE WITH PLANNING APPLICATIONS
Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office Crown Copyright 2022 The Moray Council 100023422

Map Description: Arrows point in direction photograph was taken.

Scale: 1:250 @ A4



Photo 1—looking East



Photo 2—looking West



Photo 3 —towards Pavilion



Photo 4 —towards Skate Park



PLANNING APPLICATION: 21/01272/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

- Install 15 public car parking spaces with associated drainage, widening of access road and installation of two crossing points towards the path to the north of the access road.
- The car parking spaces would be surfaced with reinforced grass pavers, whilst the widened road (to allow for manoeuvring in and out of the proposed parking) would be finished with tarmac (a strip between 1.5 and 2.3 metres).
- The grass pavers would allow for surface water to drain directly through the parking spaces to an infiltration trench below.

THE SITE

- An area of grassland to the north of the Sports Pavilion at Cameron Park, Hopeman adjacent to an access road running to car parking at the East Beach. The road is adopted immediately west, but not adjacent to the proposed new parking spaces.
- Land to the south of this incorporate the sports pavilion, a skateboard park and recreation ground beyond.
- To the north is the access road which runs from Seapark towards car parking areas serving the East Beach (close to the beach huts), with the East Beach beyond. This road is part of a core path (Moray Coastal Trail).
- The site is located within the Hopeman ENV4 (Sports Area) and Burghead to Lossiemouth Special Landscape Area designations in the Moray Local Development Plan 2020.

HISTORY

None specific to this case.

POLICY - SEE APPENDIX**ADVERTISEMENTS**

- Advertised as a departure from the Moray Local Development Plan 2020.

CONSULTATIONS

Transportation – No objections, informative notes provided.

Moray Access Manager – No objections.

Moray Flood Risk Management – No objections.

Contaminated Land – No objections.

Strategic Planning and Development – Proposal is considered to be an acceptable departure from policy EP5 (Open Space) and ENV4 Sports Area (Cameron Park Hopeman) on the basis it would not have a detrimental impact on the overall functionality and quality and use of the facility and overall sports area, and the loss of a relatively small strip of land to support visitor facilities is considered suitable in this instance, subject to landscaping being provided.

OBJECTIONS-REPRESENTATIONS

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

Mrs Lisa MacPherson - 28 Cooper Street Hopeman Elgin Moray IV30 5SB - O
 Ms Louise Whitten - Gowanbank 9 Coal Row Hopeman Elgin IV30 5TJ - O
 Mrs Patricia Bray - 10 Lodge View Hopeman IV30 5TS - O
 Pat Mackay - 11 Mcpherson Street Hopeman Elgin Moray IV30 5TG - S
 Mr David MacKay - 11 Mcpherson Street Hopeman Elgin Moray IV30 5TG - S
 Mrs Karen Cook - 19 Cooper Street Hopeman Elgin Moray IV30 5SB - O
 Miss Ann Kelman - 2A Cooper Street Hopeman Elgin IV30 5SD - O
 Mrs Grace Angus - 8 Golf Road Hopeman Elgin IV30 5TE - O
 Mrs Catherine Main - 14 Farquhar Street Hopeman Elgin IV305SN - O
 Mr John Burke - 17 Sea Park Hopeman Elgin IV30 5RY - O
 Mr Kenneth Robertson - Lorken School Brae Lossiemouth Moray IV31 6EB - O
 Mr James McPherson - 3 Moray Street Hopeman Elgin Moray IV30 5SA - S
 Mr Mark East - 11 New Street Hopeman Elgin IV30 5SG - O
 Mrs Justine East - 11 New Street Hopeman Elgin Moray IV30 5SG - O
 Mrs Janice Craib - Weddershill Farm Forsyth Street Hopeman Elgin IV30 5SY - O
 Mr Dave Craib - Weddershill Farm Forsyth Street Hopeman Moray IV30 5SY - O
 Mrs Melanie House - 22 Harbour Street Hopeman Elgin Moray IV30 5RU - O
 Mr Glenn Hunt - 50 Forsyth Street Hopeman Elgin Moray IV30 5SY - O
 Mary MacDonald - 13 Millfield Drive Hopeman Elgin Moray IV30 5TN - O
 Ms Jen Middlecote - Acarsaid 5 Havers Place Hopeman Elgin IV30 5SR - O
 Mrs Jeanette Mckee - 35 Forsyth Street Hopeman Elgin IV305ST - O

21 representations have been received – 18 objecting and 3 supporting. The points raised can be summarised as follows:

Objections

Issue: Increase in number of parking spaces will add to congestion in Hopeman.

Comment (PO): The proposed parking is for public use and will provide additional parking to alleviate congestion in this locality.

Issue: More cars manoeuvring in area busy with children (skate park and sports area) will give rise to road safety issues.

Comment (PO): The proposed parking will serve existing uses in the locality and will improve the parking situation, which will have a positive effect on road safety.

Issue: Sufficient car parking in area, which is never full even on busy gala day. People are lazy and park in street rather than using all parking areas.

Comment (PO): A lack of parking on Harbour Street and the harbour area has previously been cited as an issue by many residents. There is demand for additional public car parking in Hopeman.

Issue: Will become a bottleneck issue for less utilised car parking to the east (near beach huts).

Comment (PO): The proposal involves the widening of the road at this point, which should allow suitable space for manoeuvring of vehicles using the proposed parking spaces, and not result in any congestion for vehicles accessing the parking areas to the east. The level of traffic is not such that bottlenecks would occur.

Issue: The Park was gifted to the people of Hopeman for use by its residents, and parking will not be used by locals which goes against this arrangement.

Comment (PO): This is not a material planning consideration – it is a private matter relating to rights of use of land which is separate to the planning process. It is speculative to say that users of the park or the pavilion will not use the public parking spaces.

Issue: Additional parking will not be required when Lossie Bridge re-opens and foreign holidays become popular once more.

Comment (PO): The proposal is considered to address an issue that has existed for some time that has been exacerbated by an increase in visitors (local and from outwith Moray) to Hopeman.

Issue: Increase in litter due to additional visitors from additional parking.

Comment (PO): This is a speculative objection, and the parking would serve existing uses.

Issue: Loss of green space for children to play on.

Comment (PO): The area of ground lost as a result of this proposal is minimal in comparison to the overall open space provision in the area. The site subject to this application does not appear to offer much recreational value in comparison to other areas at Cameron Park as it sits between the existing roadway and the pavilion. See also the Observations Section.

Issue: Village is being altered to suit seasonal visitors, money could be better spent.

Comment (PO): This application must be determined as submitted and consideration to alternative projects is not a material consideration to this planning application. The public parking spaces would be free for use by locals or visitors.

Issue: People will use spaces to sit and watch their children at the skate park, and will not leave their vehicles.

Comment (PO): This is not a material planning consideration.

Issue: Why should public space for locals be lost to accommodate parking for a local business that has made no contingency for parking (West Beach Caravan Park).

Comment (PO): The proposed car parking spaces are for public use and is located next to the public park, and are not to accommodate parking for a specific business in the area.

Issue: No plans have been made regarding strengthening of single lane bridge (and only road) to parking spaces.

Comment (PO): This application must be determined as submitted and consideration to alternative projects is not a material consideration to this planning application. The Transportation Section have no objections to the proposed parking.

Issue: Proposal will encourage more campervans to park in the East Beach Car Park illegally as they already do, Moray Council do not use their powers to stop this.

Comment (PO): The legalities of the parking arrangement and its use will be down to the Council as Roads Authority to enforce, and this does not form a material consideration in the determination of this planning application.

Issue: Improved signage and parking elsewhere in Hopeman (adjacent to main road) would lessen congestion in village.

Comment (PO): This application must be determined as submitted and consideration to alternative projects is not a material consideration to this planning application.

Issue: Why not continue road past golf club to beach and ease pressure on Harbour Street, plenty of room for parking.

Comment (PO): This application must be determined as submitted and consideration to alternative projects is not a material consideration to this planning application.

Issue: Parking would be better at Harbour Beach which is an eyesore at present.

Comment (PO): This application must be determined as submitted and consideration to alternative projects is not a material consideration to this planning application, however the Planning Statement provided with the application notes this option was considered but was discounted due to there being no suitable alternative location to provide recycling facilities nearby.

Issue: Why not reclaim land up to Clashach Quarry to stop cars parking on grass verges on road to Lossiemouth/Elgin.

Comment (PO): This application must be determined as submitted and consideration to alternative projects is not a material consideration to this planning application.

Issue: Limited time given to Community Association to engage with the community on this proposal was insufficient. The response from the Community Association was neutral and not in support.

Comment (PO): The pre-application consultation for this project is not a statutory planning requirement, and therefore not a reason to decline to determine/refuse this planning application.

Issue: Further development will impact the natural beauty of the area.

Comment (PO): The proposal is not considered to result in a significant adverse impact on the amenity or character of the surrounding area.

Issue: Catering vans that utilise the space will see any proposed additional spaces being of benefit to their business.

Comment (PO): It is speculative to presume that catering vans would benefit from this additional parking.

Issue: Money would be of greater benefit to other areas within Moray, not Hopeman.

Comment (PO): This application must be determined as submitted and consideration to alternative projects/financing arrangements is not a material consideration to this planning application.

Comments of Support

Issue: Additional parking would be useful for football teams in winter and extra parking during busy summer months.

Comment (PO): Comment noted.

Issue: Will help alleviate some of the parking problems in the village.

Comment (PO): Comment noted. See Observations section.

OBSERVATIONS

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

Development on ENV 4 Designation (ENV4, EP5)

The application site is located on part of an ENV4 (Sports Areas) designation in the Hopeman Settlement Statement of the MLDP (ENV4 Cameron Park). This identifies the sporting/recreational purpose Cameron Park provides as a skate park, sports/recreation ground with associated sports pavilion.

This proposal was advertised as a departure from the development plan on the basis the proposal would be contrary to policy EP5 (Open Space) and the ENV4 designation. This is because EP5 seeks to protect areas of open space from development and other change of use not associated with an ENV designation, with a presumption against such proposals. In this instance the proposed development is for a car park and, whilst not immediately adjacent to existing parking, it is located in close proximity to parking to the west and east.

The open space does contribute to the openness of the area but it has little recreational value and the land to the south (skate park and pitches) serves the primary recreational function of the ENV4 designation. As a result this proposal would see a minimal area of ground relative to the wider ENV4 designation lost (350 sq metres out of 27,300 sq metres) and would not erode its primary recreational function in terms of quality, use and

overall functionality. Coupled with the desire to provide improved facilities for visitors (see considerations under policy PP2 below) and subject to provision of landscaping (see considerations under policy DP1 below) the proposal is considered to be an acceptable departure from policy EP5 and designation ENV4 in this instance.

The location of the parking will furthermore improve access and facilities for those using the public park and would occupy an already managed area of land, rather than being of any environmental merit.

Sustainable Economic Growth (PP2)

Policy PP2 - Sustainable Economic Growth supports development proposals that support the Moray Economic Strategy where the quality of the natural and built environment is safeguarded, there is a clear locational need and potential impacts can be satisfactorily mitigated. Tourism is identified as a key growth sector in the Moray Economic Strategy with the aim to double tourism spend by 2025.

A Planning Statement provided with the application notes this proposal forms part of the Coast to Country project which is an integral part of a Moray wide strategic staycation programme delivered in partnership between Moray Council, Visit Moray Speyside Tourism Business Improvement District, Highlands & Islands Enterprise, and various Community Trusts & Associations to create a network of facilities across the region that will contribute to tourism & relieve pressure on local beauty spots.

This proposal aims to improve facilities for the increased number of visitors to Hopeman by increasing the number of parking spaces available in the East Beach Car Park. The statement notes that other locations were identified (further to the east adjacent to the Beach Huts and the harbour). The site further east was discounted because it would yield minimum spaces and have a negative visual impact on this location, whilst the harbour site would require the recycling facilities to move to an alternative site, of which there are none nearby.

Although not a statutory requirement, the applicant undertook pre-application consultation with the local community, and this is also detailed in the supporting Planning Statement.

Overall the proposal is considered to provide additional parking facilities at a popular tourist destination in Moray (for locals and visitors) and in this regard the proposal complies with policy PP2.

Special Landscape Area (EP3)

The site lies in the Burghead to Lossiemouth Special Landscape Area (SLA) as designated in the MLDP. Within defined settlement boundaries, policy EP3 states proposals must conform to settlement statements and all relevant policies in the MLDP, whilst also reflecting the traditional character and layout of the settlement. As noted above the proposal is considered to be an acceptable departure from policy EP5 – Open Space and designation ENV4 Cameron Park Hopeman. The proposal complies with all other relevant policies of the MLDP (see below). In light of the departure matters with regard to policy EP5 and the ENV designation, the proposal is considered to also be an acceptable departure from policy EP3 as a result.

Design and Siting (DP1)

The parking would not look out of place given the existing car parking in place nearby. The grass pavers proposed would reduce the visual impact of the parking spaces, allowing

them to blend in with the sites context. A condition will be placed requiring landscaping details to be provided and agreed prior to any works commencing, to reduce the visual impact of parked cars. The relatively small scale of the proposal, its context and use of appropriate material finishes means the proposal is designed and sited suitable for its context, satisfying the requirements of policy DP1.

Parking and Access (DP1 and PP3)

The site is accessed via the public road to the east leading from Seapark. A number of objections received note concerns regarding congestion in Harbour Street leading to the car park at the East Beach, however this proposal will provide additional parking which should lower demand on on-street parking which contributes to congestion in the area. The Transportation Manager has raised no objections to the proposed car parking spaces and has not requested any conditions be placed.

The access road that the parking spaces would be built beside is designated as a core path and is part of the Moray Coastal Trail, however the proposal will not impede its use, which is already used by vehicles accessing parking to the east of this site. The Moray Access Manager has raised no objection to this application. The proposal complies with the parking requirements of policy DP1 Development Principles and PP3 infrastructure and Services.

Drainage (EP12)

Suitable surface water drainage measures are proposed, whereby the permeability of the grass pavers proposed for the parking areas would allow water to drain to an infiltration trench below, with surface water then soaking into the ground. Calculations provided with the application demonstrate this arrangement is suitable, with Moray Flood Risk Management raising no objections to the proposal. As a result the proposal complies with policy EP12 Management and Enhancement of the Water Environment.

Conclusion

It should be noted that the proposed parking is to aid parking demand from existing uses, such as the park, and would not generate new additional traffic as has been suggested. A number of the matters raised in the representations with regard to land ownership/Council Stewardship are not material to the planning process and therefore are not a consideration in the determination of this application.

Whilst not fully in accordance with the development plan, the proposed parking is considered to be an acceptable departure from policies EP3 and EP5 and designation ENV4 (Hopeman Cameron Park) on the basis it will provide additional parking in a popular coastal destination. The proposal located close to the pavilion would assist those using it, the pitches and skate park and alleviate parking elsewhere in the locality. Approval is therefore recommended.

REASON(S) FOR DECISION

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

The proposal is considered to be an acceptable departure from Moray Local Development Plan 2020 (MLDP) policy EP5 Open Space and designation ENV4 (Hopeman Cameron Park) on the basis the proposed parking would not erode the overall recreational function of the sports facilities, whilst allowing for increased parking provision in the area. Consequently the proposal is also considered to be an acceptable departure from policy EP3 Special Landscape Areas.

The proposal complies with all other relevant policies in the MLDP on the basis it is designed and sited at a level suitable to the character of the surrounding area, whilst also being a suitable parking arrangement and served by suitable surface water drainage.

There are no material considerations that indicate otherwise.

**Author/Contact
Officer:**

Andrew Miller
Senior Planning Officer

Ext: 01343 563274

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

APPENDIX**POLICY****Moray Local Development Plan 2020****PP3 INFRASTRUCTURE & SERVICES**

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

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

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

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare,

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all

proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

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

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front

of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

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

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be

considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

EP5 OPEN SPACE

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

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

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

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

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

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

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

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

b) Green Infrastructure and Open Space in New Development

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

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

i) Accessibility Standard

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

ii) Quality Standard

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

Accessible and well connected

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

Attractive and Appealing Places

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity)

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/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 behaviour.
- Appropriate lighting levels.
- Sense of local identity and place.
- Good routes to wider community facilities e.g connecting to schools, shops, or transport nodes.
- Distinctive and memorable places that support local culture and identity.
- Catering for a range of functions and activities providing a multi-functional space meeting needs.
- Community involvement in management.

b iii) Quantity Standard

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

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

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

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

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

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER

i) Special Landscape Areas (SLA's)

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

on the landscape and visual qualities the area is important for, and are for one of the following uses;

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

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

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

b ii) Landscape Character

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

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

- Civil infrastructure and most vulnerable uses.

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

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

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

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

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

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

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

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

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on

water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

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

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

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

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

HopemanENV4 Sports Areas

Cameron Park; Hopeman Bowling Club and Hopeman Golf Course

PP2 SUSTAINABLE ECONOMIC GROWTH

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

