

**21/01803/APP**  
**25th November 2021**

**Proposed cafe at West Beach Caravan Park Harbour  
Street Hopeman Elgin  
for Mr & Mrs Barry & Ruth Scott**

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**Comments:**

- Application is a local development but referred to Committee as the Appointed Officer considers there to be issues of wider community interest.
- 401 comments of support, 61 objectors and one neutral representation received.

**Procedure:**

- If minded to refuse consider authorising planning enforcement action to dismantle/remove any unauthorised structures on the site.

**Recommendation   Grant Planning Permission - Subject to following:**

**Conditions/Reasons**

1. Prior to the first occupation of the development the Electric Vehicle (EV) charging arrangements shall be implemented in accordance with submitted drawing number 021/0887/02.3 (dated February 2022), and thereafter be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.

**Reason:** In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport.

2. Notwithstanding the submitted details (showing 13 spaces) a minimum of 12 car parking spaces shall be provided within the site, of which a minimum of 2 spaces shall be to mobility standards, along with cycle parking for a minimum of 16 spaces. The parking and cycle parking spaces shall be provided prior to the first occupation of the development and 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 customers/visitors/others in the interests of an acceptable development.

3. The landscaping identified upon the submitted layout plan 021/0887/02.3 must be carried out in the first planting season following completion of the works, or within

1 year of the decision notice (whichever is the sooner). Within 5 years of permission being granted any bushes that die, or are damaged must be replaced with a plant of similar species.

**Reason:** In order to ensure the approved landscaping is timeously provided and that any planting which requires replacement is done so until the landscaping establishes itself.

4. Prior to completion of the building works a detailed plan, drawn to scale, must be submitted to and approved by the Council for the final position of the surface water soakaway. The soakaway must be provided and designed in accordance with the specifications contained within the GMC Services "Site Investigation & Drainage Assessment – HOPEMAN" dated April 2021 and submitted on 25 November 2021.

Thereafter the surface water soakaway must be built in accordance with the approved details and location and be in place prior to the building coming into use.

**Reason:** In order to ensure that the surface water drainage infrastructure is provided in line with the approved details and at the appropriate time.

5. The proposed café shall not be operated in conjunction, or simultaneously, with any other hot food outlet in the caravan park area as defined within Hopeman settlement designation T1 of Moray Local Development Plan 2020.

**Reason:** In order to avoid any ambiguity regarding the terms of this consent and to ensure that parking standards are complied with.

6. Unless otherwise agreed in writing with the Council, as Planning Authority, the security barrier at the west end of the caravan park track must be kept open and no other impediment to motor vehicles accessing the parking associated with the development shall occur whilst the café is open.

**Reason:** In order to ensure that the parking associated with the development is available for use while the café is open.

7. As per the annotation on the approved site layout plan, drawing number 021/0887/02.3, the double decker bus, comprised of dining table facilities must be relocated away from the café hereby approved (when in operation) to a location accepted in writing by the Council, as Planning Authority. The bus must not be used as additional seating for the café without the prior approval of the Council, as Planning Authority.

**Reason:** In order to avoid any ambiguity regarding the terms of this consent.

8. Unless otherwise agreed in writing with the Council, as Planning Authority, the café shall open no later than 7pm on any evening. This may be extended to 9pm during the months of July and August only.

**Reason:** In order to ensure that the amenity of the surrounding area is protected and that the business is operated as described in the supporting documentation.

**Reason(s) for Decision**

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

The proposal accords with the relevant policies of the Moray Local Development Plan 2020 and no material considerations indicate otherwise.

**List of Informatives:**

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

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

THE TRANSPORTATION MANAGER has commented that:-

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

The provision of Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority. Guidance on Electric Vehicle (EV) Charging requirements can be found at:  
<http://www.moray.gov.uk/downloads/file134860.pdf>

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 ENVIRONMENTAL HEALTH MANAGER has commented that:-

The premises will require to comply with the Food Hygiene (Scotland) Regulations 2006.

The business operator will require to register the premises in terms of the Food Premises (Registration) Regulation 1991.

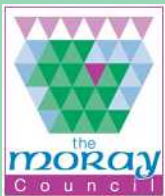
The premises will require to comply with The Health and Safety at Work etc. Act 1974 and associated regulations enforced by this section.

Should Planning consent be attained, the food business is recommended to contact the Environmental Health Section to ensure the premises layout, equipment and facilities complies with the Food Hygiene (Scotland) Regulations 2006.

To comply with food hygiene legislation enforced by this Section the development will require an Intervening Ventilated Space (IVS) between the WC compartments and food preparation and serving areas.

SCOTTISH WATER have given various comments and a copy of their letter has been sent to the applicant.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
021/0887/02.3	Site layout
021/0887/03.1	Site Levels
021/0887/04.1	Floor plans
021/0887/05.1	Elevations
021/0887/01.1	Location plan



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**21/01803/APP**

**Site Address:**

**West Beach Caravan Park**

**Harbour Street Hopeman**

**Applicant Name:**

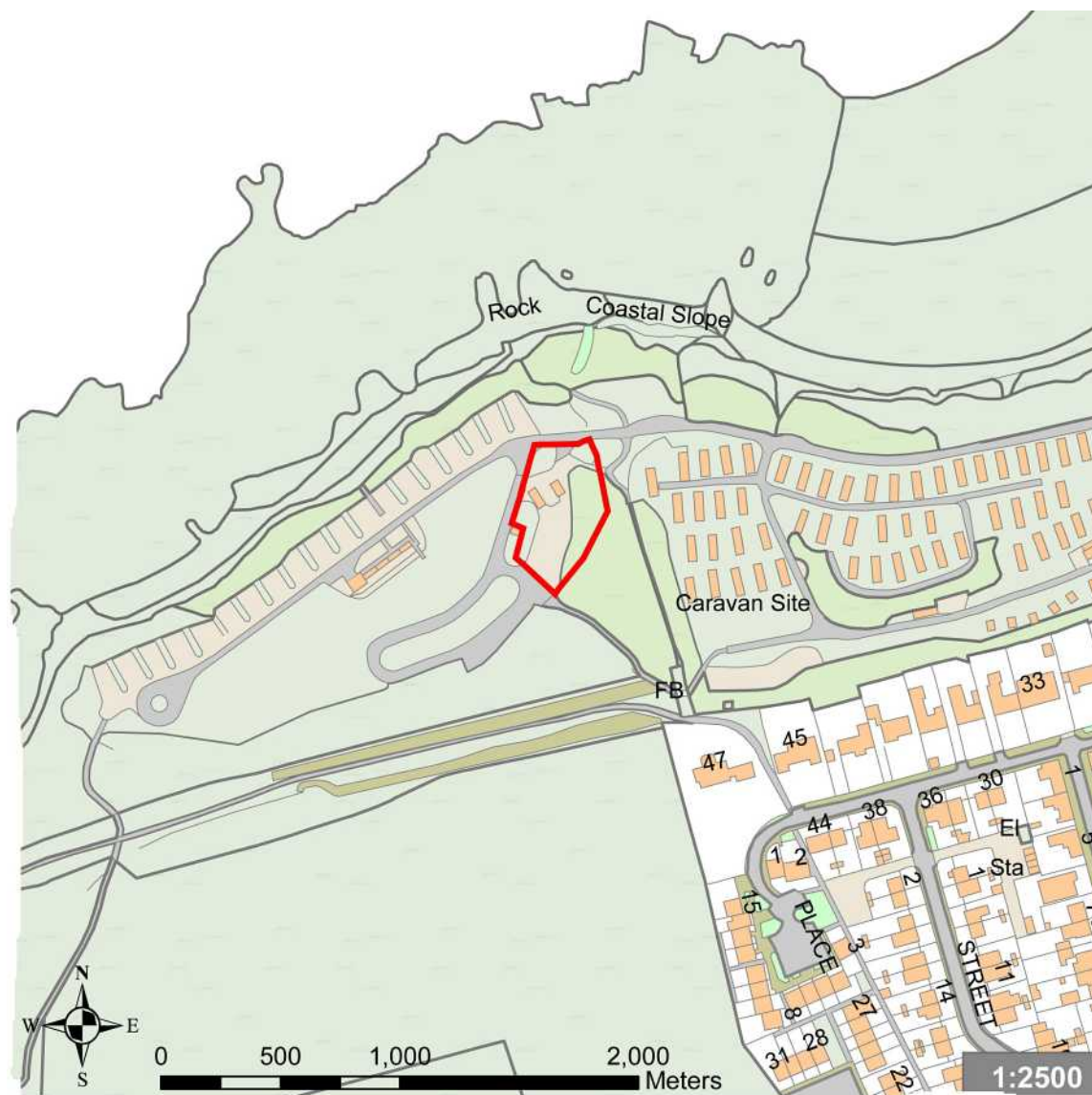
**Mr & Mrs Barry & Ruth Scott**

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## Location Plan





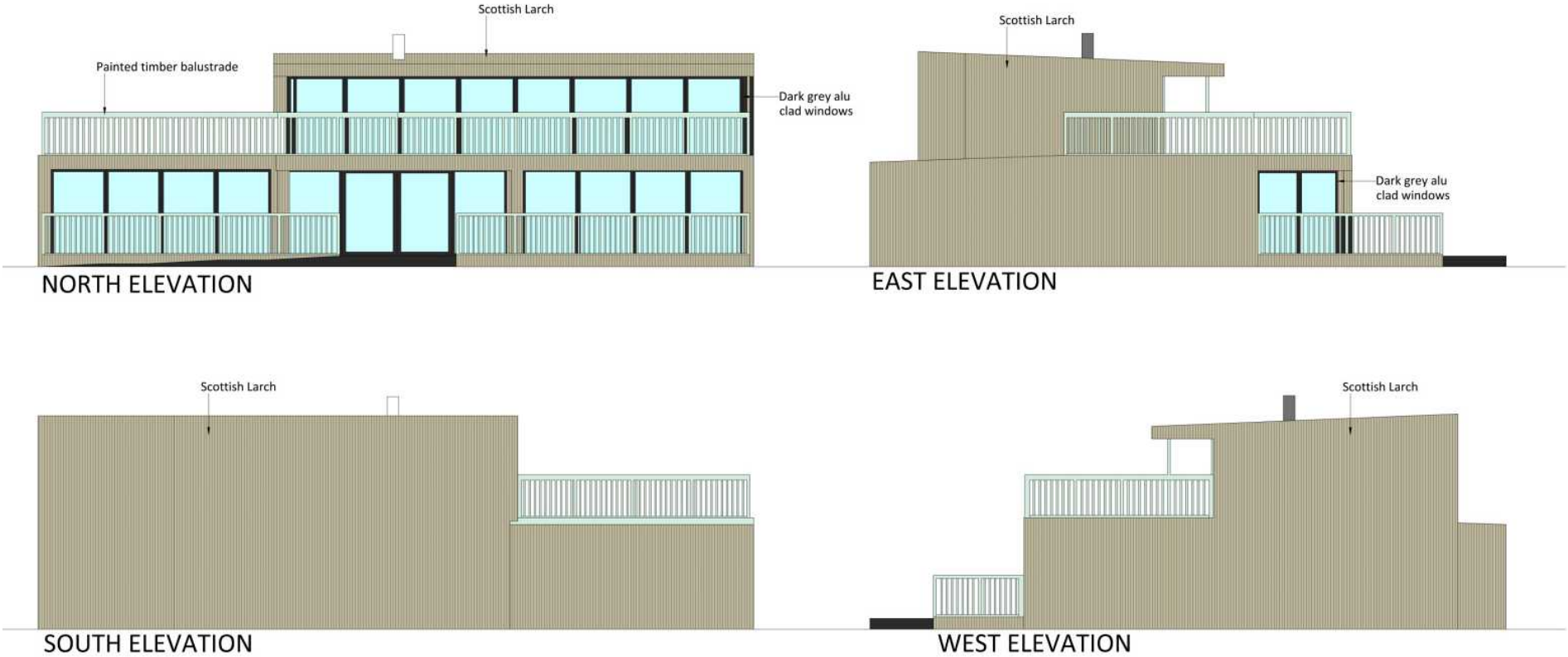
Site Location



**Site layout**

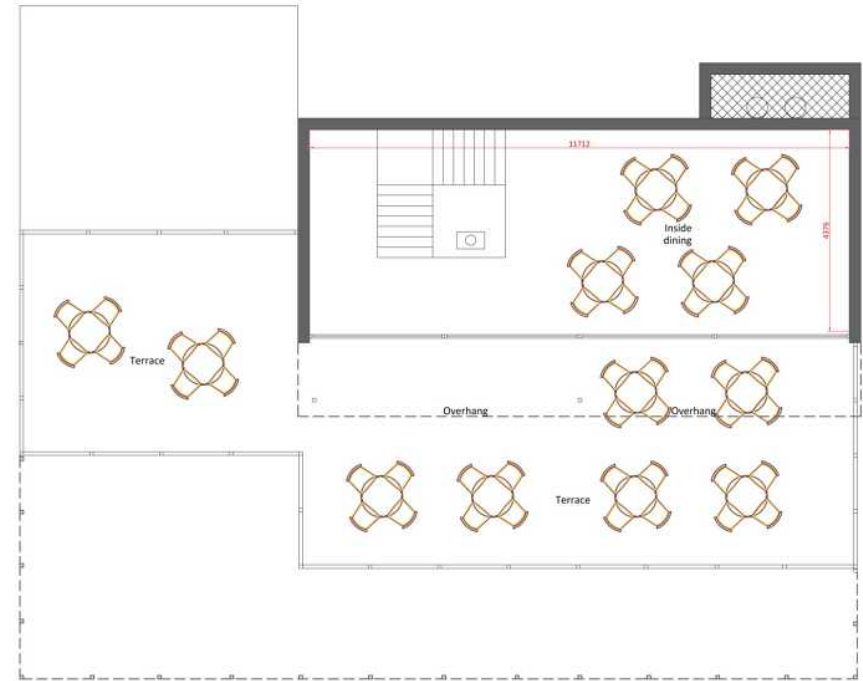


Elevations





## Floor plans



### First Floor Plan

**View facing south west across site**





**View from west across the site**



19/02/2022

**View southward from north of site**



## PLANNING APPLICATION: 21/01803/APP

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

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### **THE PROPOSAL**

- Proposed café, with upper floor balcony and decking area. To be constructed of steel shipping containers and finished with vertical Scottish larch cladding, timber balustrade, dark grey aluminium clad windows and an internal staircase. The building would be 5.6m high.
- Proposed upper terrace and ground level decked area to have painted timber balustrade, and will host approximately half the proposed seating.
- Proposal will connect to the public sewer and water supply, with surface water to a surface water soakaway.
- 13 car parking spaces, inclusive of disabled spaces and cycle parking are proposed. Electric vehicle charge points will also be provided in the carpark area.
- At the time of writing this report, works had commenced on the development with foundations laid and some shipping containers in place. The application is therefore being assessed partially in retrospect.
- For clarity, this proposal makes no reference to connecting to the former Greenbrae landfill site to the west, which was subject of a previous planning application 21/00384/APP, see planning history.
- The proposal will operate primarily as a café, with the servery inside the building and opening times are likely to vary and be seasonal, with longer hours and 7 day opening in the peak season. The business will be seasonal and opening hours will extend to match the occupancy of the park. It is likely that it will open 7 days in the school summer holidays and 5 days in the Easter and October holidays. Out with these times the opening days will reduce to weekends and Thursdays/Fridays depending on the weather and percentage of occupancy of the caravan park. Submissions by the applicant state that the café would open no later than except in July and August where hours will be extended to 9pm.exp

### **THE SITE**

- The proposal is located within the Moray Local Development Plan 2020 (MLDP) Hopeman settlement boundary and within designation T1 Caravan Park.
- Located within the coastal Burghead to Lossiemouth Special Landscape Area (SLA) as designated within Moray Local Development Plan.
- The site is bound to the north and east by the existing caravan park (touring and campervan pitches), to the south by an area of gorse and to the east by an embankment partially covered in gorse. A path leads southward on this embankment to a former railway bridge.
- No environmental designations occupy the site.



- The area had previously been excavated and levelled as part of the extended caravan park (see planning history).

## **HISTORY**

For the site itself:

**17/00509/APP** - Amend boundaries layout and number of touring pitches to planning consent approved under reference 15/02159/APP (partly retrospective) at West Beach Caravan Park, Harbour Street, Hopeman, Elgin, Moray, IV30 5RU. Approved in May 2017 after it became evident the site had not been laid out in accordance with the approved plans, and included more pitches than the 12 previously approved (19 constructed).

**15/02159/APP** - Proposed extension to relocate 12 touring caravan pitches on Site Adjacent to West Beach Caravan Park, Harbour Street, Hopeman, Elgin, Moray. Extension to the caravan park approved in May 2016 following an appeal to the Local Review Board.

Related/relevant planning applications:

**21/00384/APP** – Relocation of existing hot food takeaway and formation of a parking area/paths to be accessed via a track and access onto the B9040, on land 500M South west of West Beach Caravan Park, Greenbrae, Hopeman. Seeking to move the catering units constituting 'Bootleggers Bothy' outwith the settlement boundary to the south west of the current application site. This application was withdrawn just prior to going to Committee in Autumn 2021.

**21/01272/APP** - Formation of 15 car parking spaces on Land Adjacent to Sports Pavilion Cameron Park, East Beach Road, Hopeman, Moray. Refused by Committee in January 2022.

**21/00513/APP** - Change of use of part of joiners store/workshop to takeaway coffee shop at J And J Joiners, Sea Park, Hopeman, Elgin. Approved under delegated powers in July 2021.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

None required.

## **CONSULTATIONS**

**Environmental Health** – No objections subject to informatives.

**Contaminated Land** – No objections.

**Planning and Development Obligations** – No obligations sought.

**Building Standards** – A Building Warrant is required. Building Standards currently monitoring unauthorised works and the applicant is aware of the need for Building Warrant.

**Transportation Manager** – Conditions and informatives recommended.

**Moray Flood Risk Management** – No objection.

**Moray Access Manager** – No objection.

**Scottish Water** – No objection, but lengthy advice provided, including how trade effluent should be dealt with. The lengthy response has been passed to the applicants.

### **Strategic Planning and Development:**

#### T1 Hopeman Caravan Park

The proposal lies within the boundaries of the T1 Hopeman Caravan Park designation. This designation seeks the retention of the site as holiday caravan site and supports the development of ancillary facilities appropriate to tourist development including a café. Whilst the café will be open to customers who are not resident in the caravan park the scale and location centrally within the caravan park are clearly linked to the function as a caravan park. The location close to tourist assets such as the Moray Coastal Trail and beach also suggest clear links to tourism.

#### DP1 Development Principles/EP2 Biodiversity

Part (i) a) of policy DP1 requires the scale, density and character to be appropriate to the surrounding area. The building is two storey whereas the surrounding caravans and buildings are single storey giving the potential for the building to appear out of scale with the surroundings. It is noted that the land rises to the south and east of the building such that the building will sit within the landform with limited overlooking. The upper floor is also a smaller footprint than the lower level with a terrace surrounding this. In this context the two storey building is considered acceptable. The building has a relatively simple form and the use of larch cladding will help the building blend with the surroundings.

A revised site layout plan shows planting around the building. This is a mix of gorse and beach/marram grass. The choice of species and extent of planting shown is considered appropriate to the surrounding area and will help the building to fit within the setting. Additional detail has now been added providing more detail on the number and size of plants to be provided along with more information on the biodiversity value. This now meets the requirements of DP1 part (i) b) and EP2 Biodiversity.

#### Parking - DP1 Development Principles/PP3 Infrastructure and Services

The site layout now shows the parking area broken up with planting which is welcomed. The site layout also shows EV charging and cycle parking provision. No plans or details of the cycle parking have been provided and this should be covered by condition.

#### Policy EP3 Special Landscape Areas and Landscape Character

The site falls within the Burghead to Lossiemouth SLA and proposals must not prejudice the special qualities of the designation, adopt the highest standards of design, minimise adverse impacts on the landscape and visual qualities the area is important for. As the site falls within the Hopeman Settlement Boundary part i) b) applies and proposals must conform with the Settlement Statement and policy DP1. The consented and operational

expansion of the caravan park consented under 17/00509/APP is acknowledged within this part of T1. Proposals must reflect the traditional settlement character in terms of siting and design. The proposal sits within the existing caravan park and therefore the development would be associated with this existing use. The design of the building has a simple form and the use of larch cladding will provide a more natural material that will blend more easily with the surroundings. Whilst the design of the building is not traditional it is not out of keeping with the caravans and ancillary buildings within the caravan park. The landscaping proposed is in keeping with the coastal location and will help the proposal to fit with the setting.

#### Policy DP7 Retail/Town Centres/DP8 Tourism Facilities and Accommodation

The floor plans for the café show the potential for 92 covers and the proposal therefore has the potential to attract significant footfall in terms of policy *DP7 Retail/Town Centres*. Additional information has been submitted to allow assessment against policy DP7 and DP8.

*Locational Need – Policy DP8 Tourism Facilities and Accommodation* requires proposals to demonstrate a locational need for a specific site. The need to provide facilities on the caravan park is cited as the locational need for the proposal. The applicant considers the proposal is expansion of the existing successful tourist business.

*Footfall and Impacts on Village Centre* – A peak hourly footfall of 73 people on a Saturday and an average of 41 on Saturday has been based on the existing use of the takeaway. 80% of this footfall is expected to be from those staying in the caravan park. This level of footfall would be considered significant within the context of Hopeman, however it is acknowledged a significant portion of this will be those staying at the caravan park.

The additional information confirms the proposal is for a café with no takeaway or ancillary retail. Seasonal opening hours are proposed linked to the occupancy levels within the caravan park. It is also noted that a portion of the seating is outdoors and the maximum peak occupancy is weather/season dependent. The primary catchment of the café is stated as being the caravan park with 20% from Hopeman and other parts of Moray. It is noted that the caravan park has a maximum occupancy of 906 and therefore the café's maximum capacity of 92 could only accommodate a small portion of caravan park visitors at any one time. There are four food and drink outlets in Hopeman – two of which are takeaways. Whilst the applicant has stated the existing "Bootlegger" takeaway has traded without impacts on the village centre it needs to be acknowledged that this has been without consent and not during typical trading periods due to the pandemic. Therefore whilst the applicant has stated that they do not anticipate trade being diverted from other food outlets this is unlikely as greater choice of outlets will likely result in some trade moving from existing businesses to the new café.

Taking into account the average footfall and seasonality of the proposed cafe as well as balancing the positive impacts on the village centre of having a thriving and successful caravan park in terms of footfall on Harbour Street and visits to local shops it is not considered the proposal would have an unacceptable impact on the vitality and viability of the village centre.

#### Strategic Planning and Development Conclusion

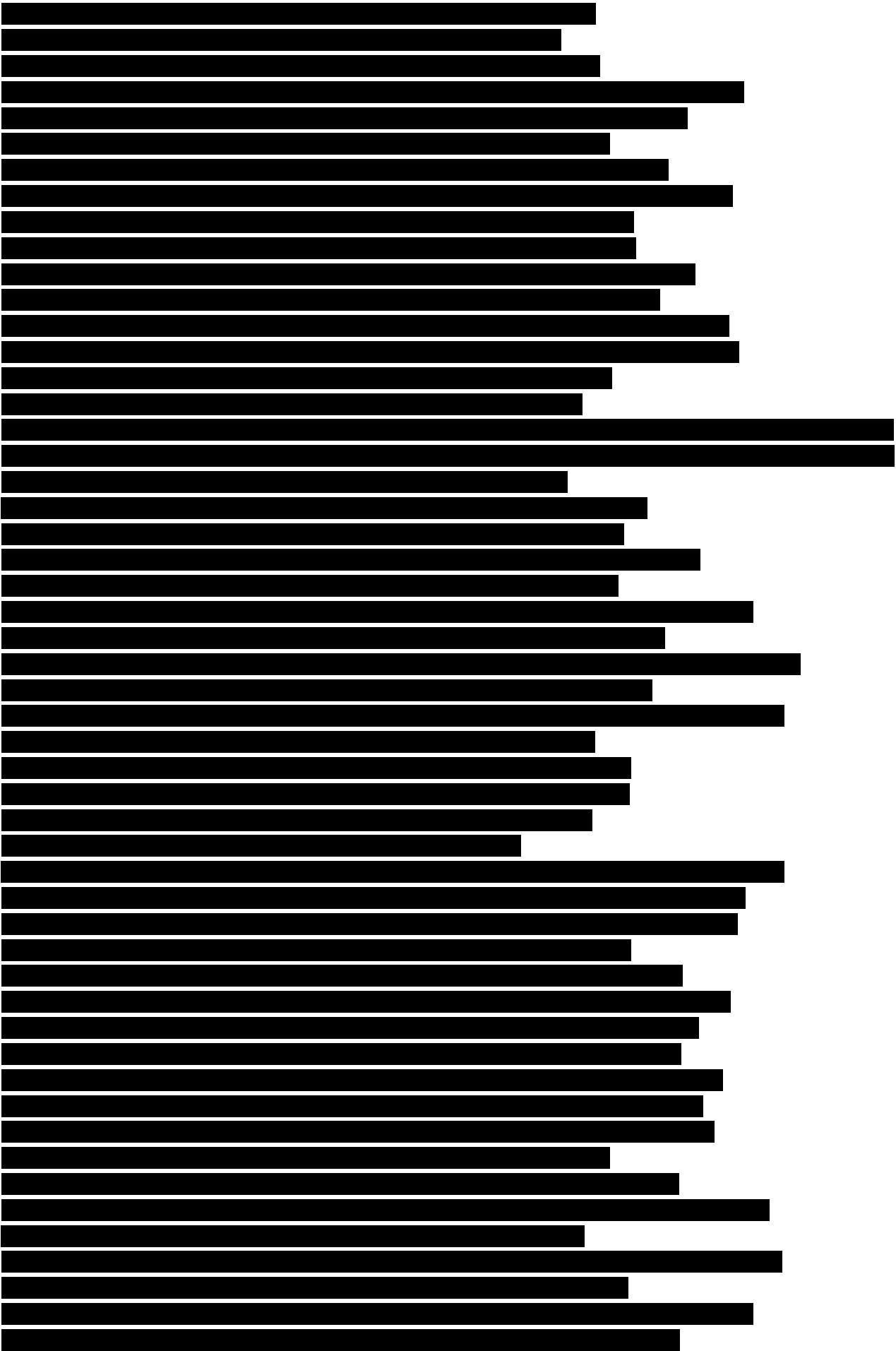
The principle of the café within the T1 designation is acceptable. However, a condition is required to confirm details of the type of cycle parking facilities in line with policy DP1 and PP3.

## 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).

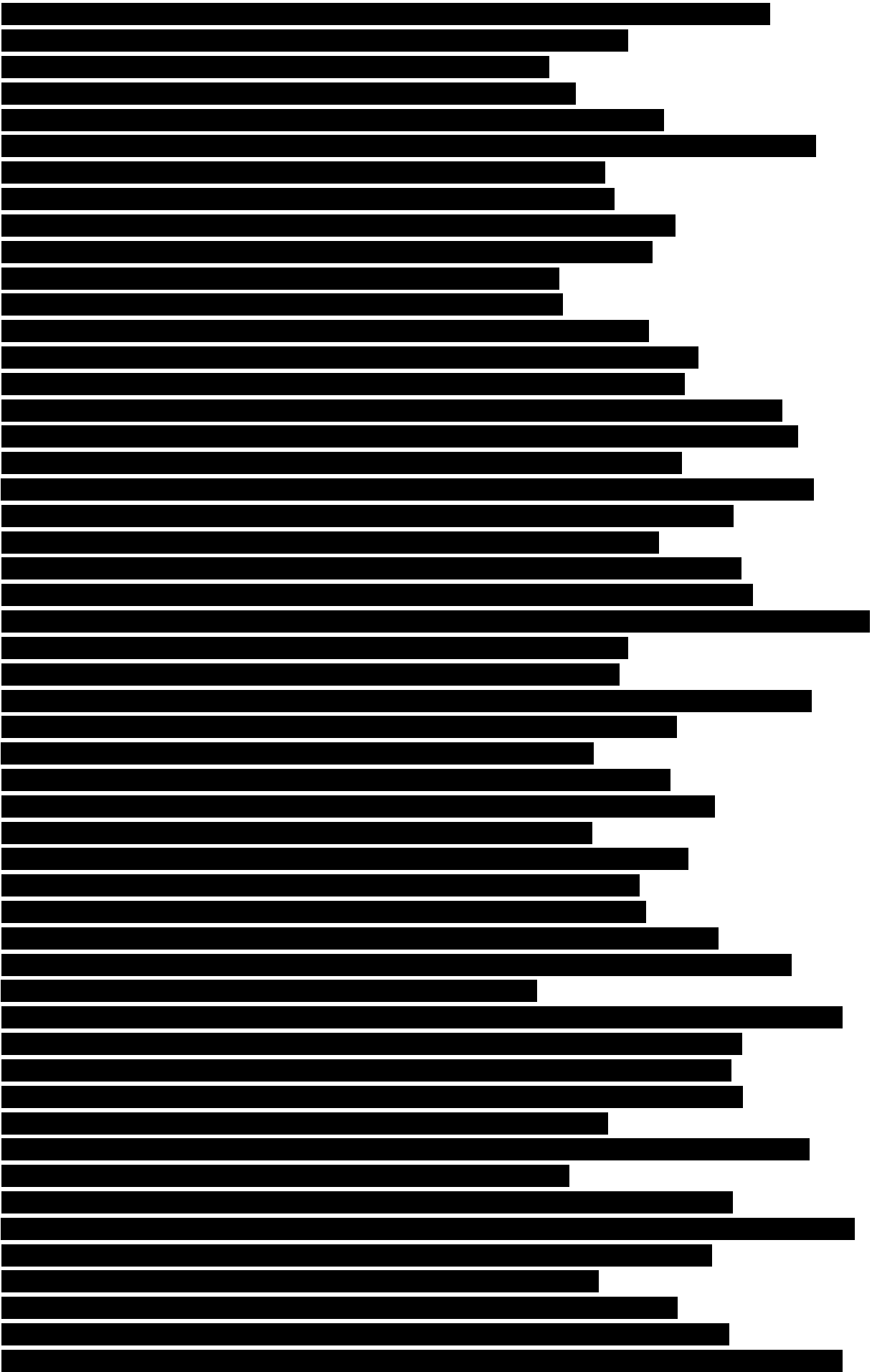
401 comments in support of the proposal, 61 opposed and 1 neutral representation have been received. All those listed below have submitted one or more representation. All representations have been considered and where material, given weight in arriving at the below recommendation. Also note that at the specific request of some individuals they did not wish their name or details to be contained within the report presented to Committee. Their objections are however summarised below.

A horizontal bar chart consisting of 30 black bars of varying lengths. The bars are arranged in a single column, with the longest bar in the middle and the shortest bars at the top and bottom. The bars represent a distribution of data, with the longest bar in the middle and the shortest bars at the top and bottom.



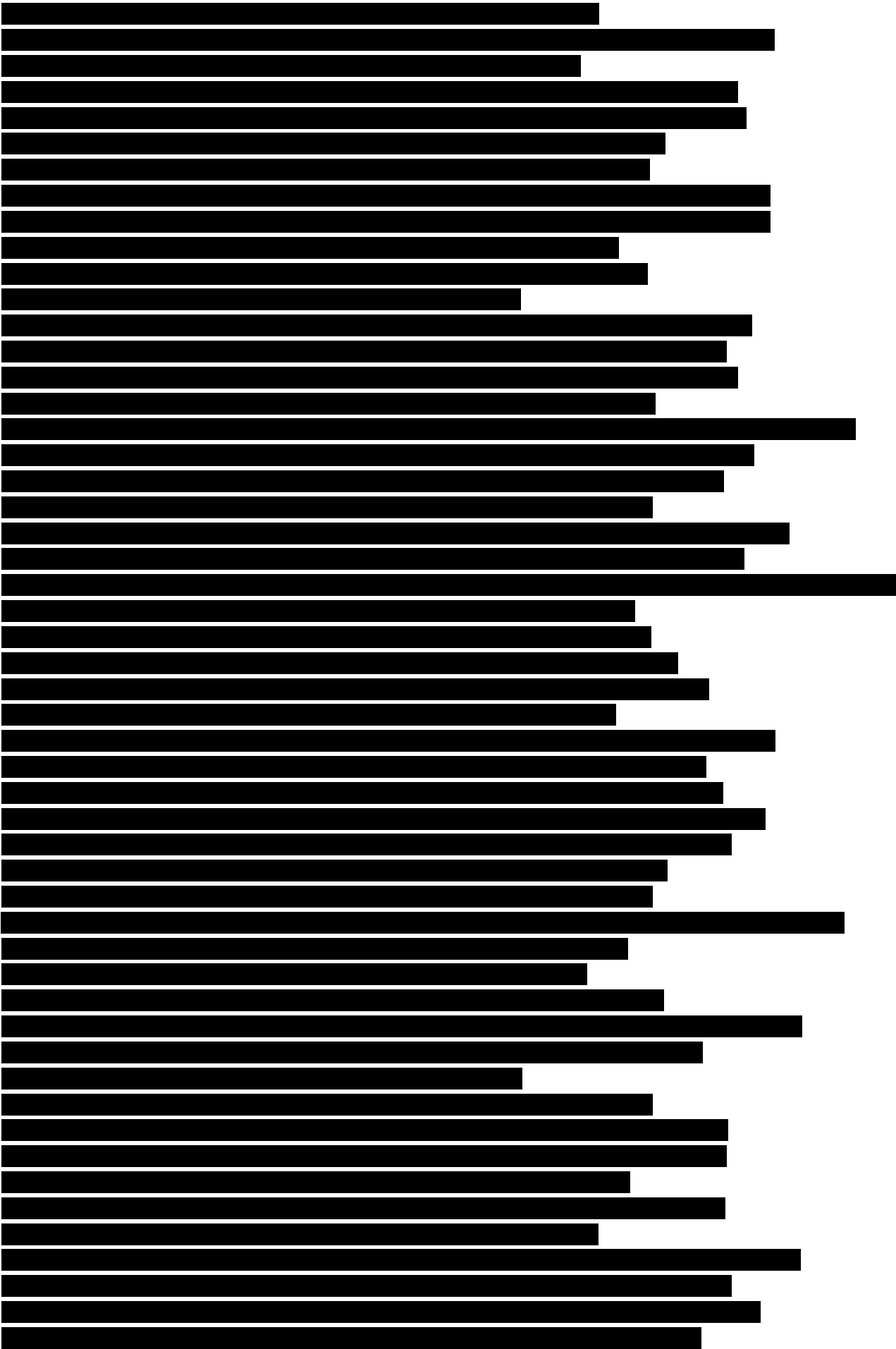






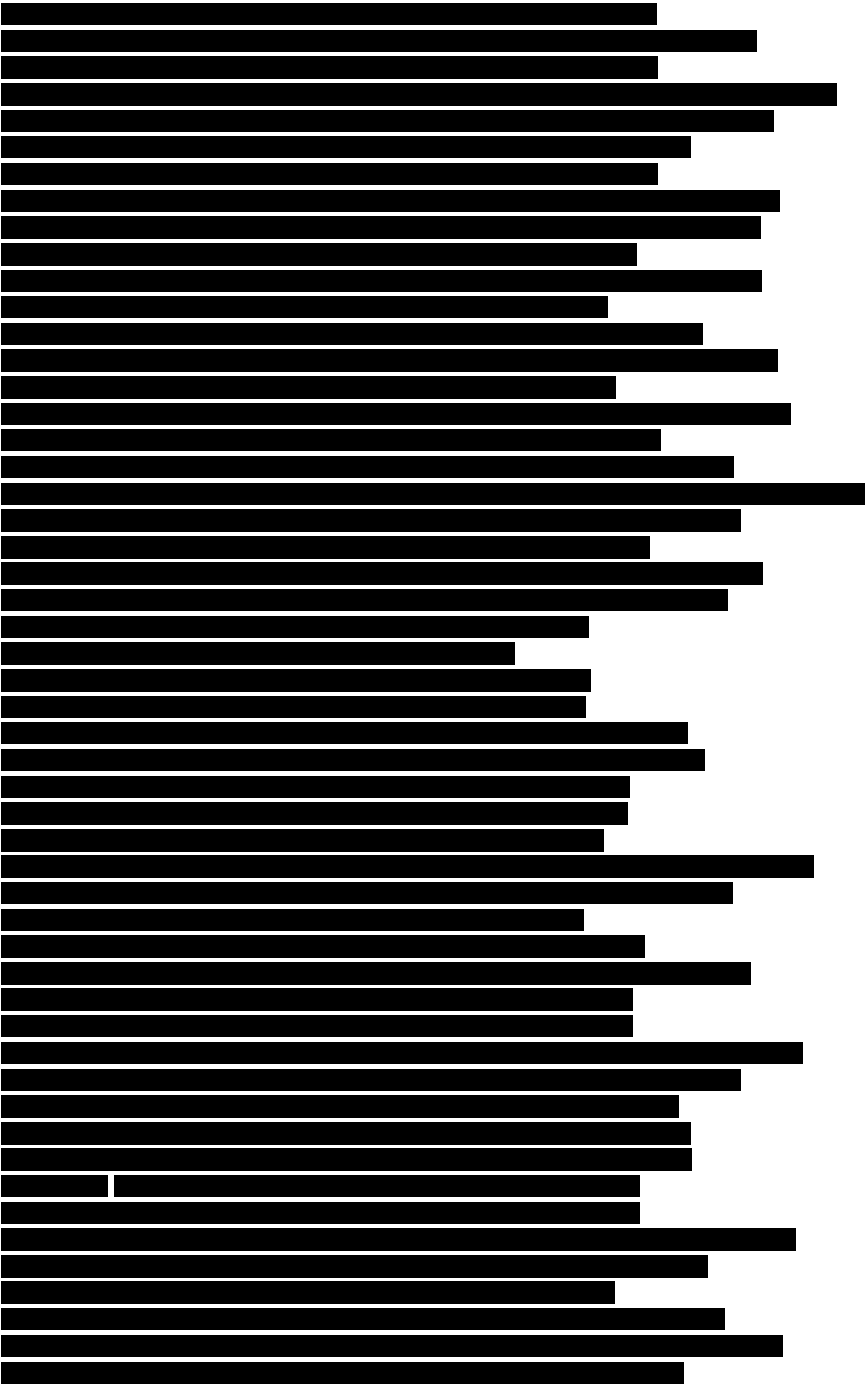
[REDACTED]











[REDACTED]

There were several points of representation made that were unduly personal or acrimonious in nature and bore no relevance to the planning process, so have not been summarised in the public report. Similarly some representations raised other wider planning or issues/matters unrelated to the proposed café, and these have not been included in this summary.

Those representations opposed to the proposal have listed the below matters from the automated list of matters from the e-planning portal. Many of these headings were then expanded upon in subsequent representations as summarised below.

- Affecting natural environment
- Activity at unsociable hours/behaviour
- Community Council/Association Consult
- Height of proposed development
- Inappropriate materials/finishes
- Inadequate Plans
- Lack of Landscaping
- Poor design
- Procedures not followed correctly
- Noise
- Parking
- Contrary to Local Plan
- Drainage
- Precedent
- Road safety
- Traffic
- Litter
- View affected
- Road access
- Over-development of the site
- Reduction in natural light
- Loss of privacy
- Legal issues
- Smell

Other specific grounds of objections are summarised in topic groups and commented upon as follows:

## Moray Local Development Plan 2020 departure

**Issue:** The MLDP states that there would be no permission for building on the land between Hopeman and Cummington. Acceptance of the proposed café would make a precedent for further encroaching developments.

**Comments (PO):** The café does not lie in the open countryside between Hopeman and Cummington where this intent is identified, but within the Hopeman settlement boundary and within the existing caravan park designation.

**Issue:** The MLDP (in the Strategy/objectives for Hopeman) states: 'To protect the special qualities of the foreshore and surrounding landscape'. This has already been compromised with the 'Bootleggers Bothy' presently on site.

**Comments (PO):** See observations section, the proposed café is not considered to detrimentally affect the qualities of the foreshore or surrounding landscape and would lie within the operational caravan park. The requirements for development within the SLA and within the settlement are set out in policy EP3.

**Issue:** As designation T1 allows for 'ancillary' uses it should be expected that the café would only be for use by patrons of the caravan park. Why therefore is additional parking being provided? It is clearly the applicants intention to have the café opened up to the wider public. Given how very busy the Bootleggers Bothy has been in the past, the café would generate far more business thus resulting in hundreds of covers per day.

**Comments (PO):** There is no reason why the business should not be open to the wider public and other visitors to the area and can still be classed as ancillary to the caravan park business. See observations section also.

**Issue:** A permanent building in this location is completely out of context, and should not be located in this position next to the open coastline.

**Comments (PO):** MLDP T1 designation, which covers this area does allow for ancillary facilities such as a café. The site sits within the caravan park and not within open undeveloped coastline.

**Issue:** This is not an ancillary facility to the caravan site, but a separate business in its own right, thereby departing from the T1 designation which seeks to retain the site as a caravan park.

**Comments (PO):** The designation for T1 specifically allows for a café to operate from the site. It will be owned and operated by the caravan site, and is clearly in accordance with the ancillary facilities cited in the designation.

**Issue:** Brownland sites should be developed first before undeveloped coastal land is used.

**Comments (PO):** The café would be located within the existing caravan park, and within the Hopeman settlement boundary.

## Traffic, road and pedestrian safety issues

**Issue:** The development is located behind a security barrier, so patrons would not gain access to use the parking, and would end up parking at the harbour and Harbour Street area.

**Comments (PO):** A condition is recommended ensuring that the barrier, nor any other impediment prevents access to the café parking area, while the café is open.

**Issue:** Concerned that there will be a significant increase in traffic on the Hopeman to Burghead Road. Objectors already have problems particularly from April until October with increased traffic including campers and caravans.

**Comments (PO):** The development is not so large as to generate excessive volumes of traffic on the B9040.

**Issue:** There are significant issues already with cars speeding on the B9040 and Harbour Street and the increased traffic would make it worse.

**Comments (PO):** Cars speeding on the B9040 and Harbour is a separate matter, unrelated to the proposed development.

**Issue:** The village of Hopeman is already congested with vehicles throughout the spring, summer and autumn months. Large motor homes and touring caravans continue to cause increased chaos. A restaurant/cafe will further increase traffic and although 12 parking spaces are part of the plan this is not enough for the size of the restaurant and the customers/covers they will attract outside the village. More parking would be required.

**Comments (PO):** The Transportation Manager has assessed the level of parking required for a café of this size, and the number proposed, now 13, is adequate for the size of the venue.

**Issue:** With a capacity for 92 covers in the café, plus various sittings in any one day, hundreds of customers could visit the café in a day showing just how busy it would be with the proposals providing inadequate parking.

**Comments (PO):** The Transportation Manager is satisfied with the parking arrangements showing 13 spaces, inclusive of 2 mobility parking spaces.

**Issue:** The caravan site has doubled in size in the last few years and the owners charge patrons to park a second car meaning the harbour area is also congested with cars parking overnight for up to 2 weeks at a time. The caravan park owners seek to restrict other vehicles from within the caravan park too, which in turn cause congestion in the village.

**Comments (PO):** The caravan park has not doubled in size, with the approved extension to the caravan park far smaller and subservient to the original caravan park. The caravan site policy of restricting additional vehicles at pitches elsewhere in the caravan park, while relevant, would not be a determining factor for this application for a café. The café proposed the appropriate amount of parking to accommodate the business it would generate.

**Issue:** No new development should be allowed in Hopeman until the road safety, traffic and congestion problems have been resolved.

**Comments (PO):** Objection noted, but development in accordance with and/or designated within the MLDP that is acceptable to the Transportation Manager should not be refused on traffic grounds.

**Issue:** The proposal will result in overspill parking using the harbour area and/or Harbour Street. The caravan park clearly results in overspill parking Harbour Street, as the congestion ceases when the caravan park is closed in the winter.

**Comments (PO):** Adequate off street parking is proposed at the café area, and the Transportation Manager has not objected to the proposals. Conditions are recommended to ensure the parking at the café is accessible to patrons.



**Issue:** Camper vans, motor homes and large caravans driving through the village create congestion, especially in the summer when the café would be at its busiest. This is when the café would be at its busiest too.

**Comments (PO):** Noted. It is acknowledged that this would be the case.

**Issue:** Heavy construction traffic and subsequent delivery traffic to the cafe, large motor homes and large caravans driving in and out of the village weaken the old bridge structure and tears up the road surfaces and through time damage drainage. If the bridge were damaged this could limit access to the harbour and its users.

**Comments (PO):** This application relates to a café, not the caravan park itself, so the traffic will not be exclusively towing caravans or campervans. The condition of the public road and structures on the public road network will not be adversely affected by the café proposal and are subject to routine inspection and maintenance by the Council, as Road Authority. The scale of the proposal will not result in a great number of construction HGV movements on the public road network.

**Issue:** The two storey café is too large and oversized for this location and the local road network cannot cope.

**Comments (PO):** The proposed café is not considered to be too large, and has sufficient space to accommodate the necessary roads infrastructure in terms of parking.

**Issue:** The changes to the foreshore from excavating this area has also diverted footpaths.

**Comments (PO):** The excavation, clearance and land forming in the area was carried out under a previous planning application when the caravan park was extended (see history section).

**Issue:** Has the Moray Council undertaken traffic surveys in Hopeman?

**Comments (PO):** In response to parking issues in Hopeman Moray Council has recently installed additional on-street parking restrictions to address issues with vehicles parking too close to junctions and on the narrow section of Harbour Street. This came about following observations of parking issues by Moray Council staff in consultation with Police Scotland who had also been made aware of the parking issues. The Council had previously met with the community association representatives, leading to the recent application for parking near the public park to the east. See history section.

**Issue:** The recent alterations to yellow lines on Harbour Street serves only to assist tourists and visitors and hinders local residents who require to park in the village.

**Comments (PO):** The measures taken to reduce traffic congestion are clearly of benefit to all traffic using Harbour Street. The proposal by virtue of the on site parking should not contribute to wider parking issues.

**Issue:** The double decker bus, with dining tables installed forms part of the set up at present for the unauthorised Bootleggers Bothy takeaway. If it is to be located at the café, it too should be assessed as part of the infrastructure upon the site.

**Comments (PO):** The applicant has confirmed that the bus will be removed from the vicinity of the café and will not be used as part of the café while its operating. A condition is recommended to ensure the bus is removed from the vicinity of the café and is not used as additional seating for the café.

**Issue:** This historic fishing village was not designed for the level of traffic visiting the caravan park as it is. Getting busier still, causing congestion and parking issues, will damage existing businesses in the village.

**Comments (PO):** The Transportation Manager has not objected to the proposals and of note recent action has been taken to alter parking restrictions on Harbour Street to reduce congestion. The proposal is not so large as to result in critical build up of congestion on Harbour Street so as to affect other businesses.

**Issue:** The traffic congestion in the village is so bad it is difficult for emergency vehicles to gain access to Harbour Street or the harbour. The congestion has nearly caused several road traffic accidents.

**Comments (PO):** Emergency services have to deal with existing traffic congestion across the public road network, and the Transportation Manager has not objected to the proposed development.

**Issue:** The parking congestion at the harbour has led to difficulties in launching and retrieving boats from the slipway.

**Comments (PO):** Noted, however this application will provide adequate off-street parking for the café within the caravan park.

**Issue:** Visitors to the area routinely ignore the no overnight parking signs exacerbating parking issues in the harbour area.

**Comments (PO):** Noted. This matter is outwith the control of the applicant.

**Issue:** It is noted that the proposal makes no reference to linking the caravan site to the former landfill site at Greenbrae which was previously used as remote parking for this accessing the Bootleggers Bothy. It was previously stated under a previous application that the caravan park did not have permission to cross the public right of way that is the Moray Coast shared cycling and walking trail. Can it be concluded that this means this path will not be used for diners to use to access the caravan site?

**Comments (PO):** Correct, this proposal makes no reference to access from the west, and the parking and access for the site has been assessed as being taken solely from Harbour Street.

### Environmental issues

**Issue:** The cafe would have a detrimental effect on the environment and landscape in which it is set.

**Comments (PO):** There would unavoidably be a degree of change to the immediate landscape and all development has some impact upon the environment. The site however occupies an area of ground already developed for, and lying within the extended West Beach Caravan Park.

**Issue:** The site was a former landfill site, so concerns over ground gases, public safety and subsidence remain.

**Comments (PO):** There is no record of this site being a former landfill site, nor is it susceptible to subsidence. It is thought that some objectors may be confusing this site with that previously proposed to the south west under planning application reference 21/00384/APP which was ultimately withdrawn by the applicant.

**Issue:** The proposal would involve cutting away more gorse, reducing habitat from the gorse areas adjacent to the café. The gorse has struggled to recover after the gorse fires over the years.

**Comments (PO):** The café would occupy an area where the gorse has already been removed some time ago and the land levelled. There will be no incursion in the ENV5 gorse area.

**Issue:** Protected wildlife in this area will be affected due to an increase in people and movement and during the construction period.

**Comments (PO):** The site already lies within the operational caravan site, and the busy coastal path to the south already results in the movement and presence of people. The area therefore already experiences human activity and any construction period while generating some noise will be temporary in nature.

**Issue:** The increased traffic will increase pollution and noise on the route to the location via Harbour Street.

**Comments (PO):** The anticipated increase in traffic will not materially increase the amount of pollution and noise on Harbour Street. The amount of traffic anticipated to use the café would fall far below the level at which any increase in air pollution would begin to cause concern. Harbour Street also experiences traffic movements, such there would be no material increase in noise.

**Issue:** The proposal will generate light pollution, create fumes and cause littering of the environment.

**Comments (PO):** It is speculative to suggest a café would result in littering of the environment. Environmental Health legislation covering the ventilation of food premises would address any odour control required, but given the café would be set well away from residences, this may not be required. Given the proposed café is not intended to open late into the evening and will operate primarily during the day, and will be lit within its immediate surrounding like any other property within Hopeman there is no basis to suggest it will overtly create light pollution. The café is also orientated northward away from other properties in the village.

**Issue:** It is understood from local knowledge that the site of the extended caravan site, and the proposed café was used as a dump for the village. This preceded the use of the former quarry at Greenbrae as a landfill site and could therefore contain harmful or dangerous materials/gas.

**Comments (PO):** Consultation with the Councils Contaminated Land officers did not identify any contaminated land issues or such uses within this site. They have an extensive database of historic land-use maps and no likely sources were identified. Furthermore, circa 2016 when the extended caravan site was being formed, site visits to the location occurred when the locality was stripped of vegetation and top soil exposed. No evidence of the site having been a tip was evident at that time, and some of the excavations were several metres deep towards the south edge of the park extension. The area has since been backfilled and put to use. The foundations strips laid near the surface, again with no evidence of the any past use as a tip was observed.

**Issue:** Since the caravan park was extended, it has spoilt enjoyment of the coastal path, due to the human activity such as barbecues, noise, smells impinging on an area of seclusion and natural beauty. To further develop the site would completely spoil this otherwise beautiful walk.

**Comments (PO):** The coastal path occupies a former railway cutting, which for much of its length near the proposed site, would unlikely see the proposed café. The perception that no human activity should occur near the coastal path would not be reasonable, and at either end of the coastal path it interacts with the settlements it connects.

**Issue:** Increased visitor numbers are causing additional erosion of the foreshore west and east of the village.

**Comments (PO):** It is not considered that the addition of a café to this location would substantively lead to coastal erosion of footpaths. There are established paths leading to the location from the caravan park and from the south, which do not encourage movement onto the foreshore area.

**Issue:** There is a lack of bins in the area as was witnessed at the Bootleggers Bothy takeaway.

**Comments (PO):** The proposal is for a café, where waste would be generated and dealt with by staff within the building, or outdoor table areas.

### Building design

**Issue:** The building would be poorly designed, an eye sore on the edge of the village for residents and visitors, visible from the Hopeman to Cummingston coastal trail and is not in keeping with its presence in the Special Landscape area. Its two storey element does not seek to protect the special qualities of the foreshore and surrounding landscape.

**Comments (PO):** See observations section, it is not considered the proposed building would be an eyesore, or inappropriate to this locality. The building being less than 6m in height would not be overtly prominent or dominate the surrounding landscape. It is bound by an embankment to the south east which provides a degree of enclosure and a backdrop if viewed from the west.

**Issue:** The proposed building will be unattractive, and is poor design. It bears no resemblance to the local architecture given its contemporary design.

**Comments (PO):** There are a mix of architectural styles in Hopeman, and given the function and purpose of the building its design, position and choice of materials all seek to minimise any impact upon the local landscape. See the observations section.

**Issue:** This large and high building is clearly over-development of the site.

**Comments (PO):** The building would sit within an area of the developed caravan park that has sufficient space surrounding it for the building and associated parking. At approximately 5.6m high the structure would be no higher than a pitched roof single storey building.

**Issue:** The building would block views from the surround area.

**Comments (PO):** Whilst there is no entitlement to a view the building, sitting within the caravan park, on low lying ground would block views from the surrounding area. The building would sit well below the majority of Hopeman.

### Other objections

**Issue:** It is unclear if the café would serve alcohol.

**Comments (PO):** Given the applicants currently sell alcohol on the caravan site, and have a license to do so, it is anticipated that the café would also serve alcohol.

**Issue:** There are already a sufficient number of food outlets in the village, no more are required. The proposal will take trade away from other established businesses in the village.

**Comments (PO):** The economic impact of the café is assessed below, but generally speaking the presence of other comparable businesses would not constitute grounds to prevent other similar businesses from being approved.

**Issue:** They already have a fastfood takeaway on site which has no parking, and customers park and congest in the village.

**Comments (PO):** The proposed café would replace Bootleggers Bothy and conditions are recommended to ensure the businesses do not run concurrently and that the proposed parking is made available to all customers when the café is in use.

**Issue:** A big cafe will affect the quaint tranquillity and ambience of Hopeman. The amount of visitors to the village is already spoiling the village.

**Comments (PO):** The café will sit within the existing caravan park, and is not the type of use that would impact upon any perceived tranquillity. The village is already busy in the summer months and other food outlets exist within the village without having such an effect.

**Issue:** The proposed café may even deter tourists and visitors.

**Comments (PO):** It is unclear how a café within an existing caravan park would result in such an outcome.

**Issue:** Moray Council should be supporting the existing businesses, especially given the struggles the Covid-19 pandemic has brought about.

**Comments (PO):** Moray Council does, but this does not mean that new businesses should be prevented from starting.

**Issue:** The applicant is generating support for the proposal using social media, which is inappropriate and not how the Council should operate the planning system.

**Comments (PO):** The means by which any representation is generated is not a matter covered by the planning system, and all representations received in time are considered. Cooperation between those opposed to the development or in support of the proposal is immaterial to the consideration of the issues they raise. Anyone is entitled to make representation regardless of whether or not they were encouraged to do so.

**Issue:** Scottish Water state there are no sewer connections available in this vicinity and private arrangements should be sought.

**Comments (PO):** Scottish Water have not objected to the proposal and the applicant is aware of the need to extend the existing sewer connection for the caravan park along to meet the proposed café. No private sewage treatment is proposed.

**Issue:** Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains. The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. The planning application does not indicate how

they will legally dispose of their waste, nor take into account any of the other obligations as stipulated by Scottish Water.

**Comments (PO):** Any grease trap would be dealt with under any Building Warrant application and the other matters have been brought to the attention of the applicant as standing advice from Scottish Water. Waste collection will occur in line with the existing commercial refuse collection that takes place at the caravan park. The matter of waste segregation would not be a determining factor for the planning application but would be expected to take place.

**Issue:** Query as to why the development was not advertised under Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 as a development likely to affect residential property via noise, light, increase activity etc.

**Comments (PO):** As discussed elsewhere, the site occupies a discrete location at the west end of and within the caravan park, and is located over 100m away from the nearest residence to the south east. It is also proposed, as a café, to open no later than 7pm (9pm in July/August) out of deference in part to the visitors staying overnight close by in the caravan site as well as local residents. It is not anticipated therefore that it would raise any amenity issue for local residents.

**Issue:** Place the parking and amenity needs of local residents ahead of commercial expansion.

**Comments (PO):** Consideration has been given to the impact on local residents, and the assessment of amenity takes into consideration that the café itself will lie some distance away from local residences. The parking issue concerning residences is being addressed within on site parking at the café.

**Issue:** It is unclear what the opening hours and times of the café will be.

**Comments (PO):** The business will be seasonal and opening hours will extend to match the occupancy of the park. It is likely they will open 7 days in the school summer holidays and 5 days in the Easter and October holidays. Out with these times the opening days will reduce to weekends and Thursdays/Fridays depending on the weather and percentage occupancy of the caravan park. A condition is recommended to ensure the café will not generally operate beyond 7pm.

### **Supporting comments**

Those commenting in support of the application have made the following representations which are summarised and commented upon below.

**Issue:** The business, like the Bootleggers before it would bring custom into the village, which benefits the whole village and enhance the caravan site. Another café in the village can only be good for Hopeman and enhances visitor attractions in our coastal villages. The coast loses out to newer bigger attractions inland such as Macallan Distillery visitors centre.

**Comments (PO):** Noted. The presence of other competing tourist attractions would not be grounds to approve the café. All acceptable economic development is supported within Moray.

**Issue:** The business would create much needed employment jobs in the village and create business for local suppliers. It would be good to see visitors spending more money and staying in the village longer.

**Comments (PO):** Noted.

**Issue:** The proposed site is in a well located position, within what is a well maintained and run caravan site, it would be an asset to the village.

**Comments (PO):** Noted. See recommendation for approval.

**Issue:** The current Bootleggers Bothy is very much weather dependent, so it would be an enhancement to the village to have this venue provide a seated setting which would help attract more visitors to the area.

**Comments (PO):** The provision of a seated café in place of the Bootleggers Bothy accords with the MLDP designation for the area.

**Issue:** The café would be located in a discrete location bound and screened by an embankment and would not be visible, or barely visible, from the Moray Coastal Trail.

**Comments (PO):** It is agreed that whilst within the settlement boundary the proposed café would occupy a discrete corner of the caravan site and would not impact upon any neighbouring uses.

**Issue:** The proposed café does not lie within a traditional part of the village or sit amongst traditional houses, so the design of café is entirely in keeping with the caravan park in which it is set. There are other contemporary designs of buildings within Hopeman.

**Comments (PO):** See observations section, design of café acceptable.

**Issue:** Many large caravan parks have their own café, with most also being open to other guests.

**Comments (PO):** It is agreed that allowing such a café to be open to other customers and visitors is acceptable.

**Issue:** Given that many of the people using the café will already be staying at the caravan park and just walking to the café, the parking is sufficient. The proposed parking should address wider parking concerns.

**Comments (PO):** Agreed, the parking standard sought does not take account of this to ensure beyond any doubt that sufficient parking has been provided.

**Issue:** The new café will be on the same position as the current Bootleggers Bothy takeaway, so no intrusion into the surrounding habitat or further loss of gorse will occur. The successful operation of a takeaway business at this location over the past two years shows that it would be an appropriate position for a café.

**Comments (PO):** Noted, and the landscaping condition proposed seeks to re-introduce some gorse in and around the café. The previous Bootleggers Bothy food takeaway did not benefit from having planning permission, and no weight is being attached to its presence in this locality.

**Issue:** The road network and bridge receive HGV's all the time and are regularly inspected.

**Comments (PO):** The Transportation Section have not objected to the ongoing use of the bridge, which is routinely inspected as part of the public road network.

**Issue:** The proposed café will replace Bootleggers Bothy, which has operated without harming other business in Hopeman for several years. There is only one comparable café, and there is no reason why several should not exist in Hopeman giving visitors a choice.

**Comments (PO):** See the observations section re the impact on other food related businesses in Hopeman.

**Issue:** The traffic congestion experienced in 2020 alone was a unique situation and due to Covid and Lossiemouth east beach being closed.

**Comments (PO):** Agreed, see observations section re traffic issues.

**Issue:** A takeaway near the harbour in Hopeman gained planning consent earlier in the year.

**Comments (PO):** Noted.

**Issue:** There is a lack of choice for cafes in this part of Moray, so an additional café would be welcomed.

**Comments (PO):** Noted.

**Issue:** The Sundancer venue at the caravan park in Nairn could be comparable to the proposal. It is enjoyed for food and views.

**Comments (PO):** It is acknowledged that caravan parks can often host a café, open to others beyond patrons of a caravan park.

**Issue:** Given the difficult time the hospitality sector has endured over the past two years, support should be given for proposals such as these.

**Comments (PO):** MLDP is already generally supportive of new businesses, and the Hopeman settlement statement designation T1 supports ancillary facilities at the caravan park such as a café.

**Issue:** The café would be well positioned to serve those using the Moray Coastal Trail.

**Comments (PO):** Noted.

**Issue:** The building is well designed and appropriate for this location. It is architecturally attractive, with balcony's common to other development overlooking the sea and will enhance the area. The choice of indoor and outdoor seating will add appeal to visitors.

**Comments (PO):** See the observations section of the report considering the design of the café.

**Issue:** The applicants have listened to the concerns of local residents and have provided the appropriate parking entirely within the caravan site.

**Comments (PO):** Adequate parking has been proposed.

**Issue:** This development supports the MLDP initiative to provide sufficient land for development and supports sustainable economic growth including the tourism economy.

**Comments (PO):** The proposal is considered to accord with the MLDP.

**Issue:** With staycations being more of a requirement due to Covid, developments like this should be showcased as the way local businesses have innovated to support the changing business models for the future.

**Comments (PO):** Noted.

**Issue:** This development will continue to support the upgrading of existing infrastructure along the moray coast. The creation of safer "walk" pathways has created opportunities for those with limited mobility or those physically disabled who require use of a wheelchair/



mobility scooter. Due to the update of paths this development will create a new location for those who are disabled to enjoy.

**Comments (PO):** The proposed café will provide disabled parking and must also satisfy the various building standards requirements for mobility impaired access to the building but this is separately assessed under the building warrant process.

**Issue:** This supports Morays Health and Social Care agenda where the future is to support people in their own home and community. Home First is a strategic driver which is key to supporting the development of local assets which this development aligns to. Having more all year round disabled friendly facilities offers a superb place for people to visit and enjoy. The views of the seaside can support mental well-being for individuals whilst enjoying food and drinks.

**Comments (PO):** Noted, however the proposed development will close over the winter period when the caravan park is closed.

**Issue:** In terms of character, the proposed café is in keeping with the brand identity on the site.

**Comments (PO):** See observations section. Given the unique nature of the proposal within the caravan site, the design of the café is considered acceptable to the location in which it is proposed.

## **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.

### **Background**

The 'Bootleggers Bothy' has been a hot food takeaway business operated from within the West Beach Caravan Park which has been in situ since approximately 2019. The premises and associated structures being permanently located at the west end of the caravan park require planning permission in their own right and discussions on the need to regulate the use with planning took place in 2020. However advice from the Chief Planning Officer from the Scottish Government in 2020 in response to the Coronavirus pandemic advised that certain businesses hit hardest by the pandemic may be allowed to diversify in order to sustain themselves financially, and furthermore planning enforcement during this period should take recognisance of that. The Chief Planning Officer states in April 2020 that Planning Enforcement should take a 'reasonable and pragmatic view' towards business affected by the pandemic, and for that reason the business, which brings income into the otherwise closed caravan park, was allowed to continue.

The takeaway food outlet grew in popularity, especially during periods in 2020 when mainstream restaurants and other attractions were closed. This resulted in a very busy period in 2020 when the numbers of visitors to the food outlet was notable within the village. Since then, and with the re-opening of other food outlets closed due to Covid in 2020, the same level of activity was not witnessed in 2021. The current situation now sees all hospitality food outlets in Moray operating close to pre pandemic levels, such that the intensity of use witnessed in 2020 would not occur again. Anecdotally, the same period in 2020 also saw Lossiemouth East beach closed due the foot bridge being condemned, and this resulted in one of the busiest beaches in Moray having its visitors displaced elsewhere.

Notwithstanding the support and relaxation for businesses contained within the Chief Planner Officer letters, the proposed cafe would constitute a new business and requires regulation moving forward. While the applicant has chosen, contrary to advice, to progress with development, the current application still needs to be assessed on its planning merits.

The application submission now includes a Site Investigation & Drainage Assessment and a statement of response to questions raised by Moray Council surrounding retail impact.

### **Principle of development in caravan park (T1 Hopeman Caravan Park)**

The west end of the caravan park is bound to the north by designation ENV6 (Natural/Semi-Natural Greenspace) along the shoreline and to the south by designation ENV5 Green Corridors along the coastal path and gorse areas. The proposed café impinges upon neither of these areas and the site is entirely within the T1 Hopeman Caravan Park designation. Access to the site is shown through the caravan park also, linking to the public road network.

Designation T1 Hopeman Caravan Park states “Ancillary facilities appropriate to tourist development, such as a shop, café, laundry and shower facilities will be supported within this area.” There is therefore a clear statement to support such facilities within the caravan park, and the proposed café will be in accordance with the Hopeman settlement statement designation. Like other facilities within caravan parks in Moray and beyond, visitor facilities at caravan parks are open not only to those staying at the caravan park, but also visitors to the caravan-park or local residents. While the focus is upon provision of ancillary facilities to the caravan park, these need not be restricted to patrons of the caravan park alone. There is no stipulation within the MLDP that such a café must be for patrons of the caravan park alone and chorally the applicant has been asked to ensure adequate parking and other infrastructure is provided to account for any café of this scale that would be open to public visitors.

Also discussed below is the impact the proposal would have upon the special qualities of the foreshore, Special Landscape Area in which the development would also be located.

### **Economic issues and retail (PP2, DP1, DP7 and DP8)**

Policy DP7 Retail/Town Centres requires applications that will attract significant footfall to demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the network of town centres identified in Table 6 'Retail Centres and Roles' of policy DP7. Although Hopeman is not referred to in table 6, it is identified as a "smaller town and village" in the spatial strategy which is the same as settlements such as Rothes and Dufftown which are local centres within table 6. Hopeman does not have a town centre but Harbour Street effectively functions as the High Street of the settlement and contains a number of shops/businesses catering for the demand of the community and visitors.

It is therefore appropriate to give some consideration to the impacts of the proposed café upon other relevant businesses in Hopeman. This matter is discussed in depth above within the consultation response from Strategic Planning and Development Section and their conclusion is reasonable that the impact of the café of the size proposed is not on balance likely to cause unacceptable impacts upon other food outlets in the village. Weight must be attached to commercial benefit for the village from a caravan park that attracts business to the village, and the local plan designation acknowledges this in stating that ancillary facilities such as a café on site would be supported as contributing to vitality

of the caravan park. It must also be borne in mind that the café would lie within the settlement boundary, approximately 300m from Harbour Street and the harbour area which is within reasonable walking distance. It is therefore concluded that there would be no detrimental impact on the commercial vitality of Harbour Street from having a further café within the village and the proposal satisfies the requirements of policy DP7.

Policy DP8 Tourism Facilities and Accommodation requires proposals to demonstrate a locational need for a specific site. Locational need is where it is necessary for the proposed development to be located on (or in close vicinity) to the site. Necessary in this context means more than convenience. The locational need is justified by the existing presence of the caravan park in which it is reasonable to allow the proprietor to provide ancillary facilities and attractions to the visitors to the caravan park. Furthermore the MLDP designation specifically identifies that a café could be located within the T1 designation, providing an ancillary facility to patrons of the caravan park. With the MLDP having primacy as a consideration in the determination of the application, the reference to a café within designation T1 establishes the principle that this location is appropriate, necessary and acceptable for such a proposal.

The seasonal nature of the business and the fact that approximately half the seats indicated in the submitted floor plans are outdoors will likely see the café operating below capacity much of the time. As the site lies within the village settlement boundary, and is within reasonably close proximity to the harbour and northern end of Harbour Street, it is not considered that it would unduly draw custom away from the rest of the village. The proposal is therefore considered to comply with policy DP8 and will provide another establishment drawing visitors to Hopeman alongside the other existing food outlets.

### **Transportation, Access and Paths DP1 (DP1 and PP3)**

DP1 Development Requirements and PP3 Infrastructure and Services require any development to be accessed safely and safeguard and enhance pedestrian facilities. Notwithstanding the strong likelihood that patrons of the caravan site will be predominant users of the café, and will walk to the café from their respective caravans, the parking requirements discussed below ensure that the development would be wholly compliant with the parking requirements of any café.

The Transportation Section have not objected to the proposals as the proposal has provided sufficient parking, disabled parking, vehicle turning cycle storage and electrical vehicle charging points for a development of this size. 10 spaces and 2 disabled spaces would have been sufficient, but 11 standard spaces and 2 disabled are proposed which is sufficient for a business of the size proposed. The Transportation Manager, mindful of traffic issues in Hopeman has also commented that additional on-street parking restrictions within Hopeman have recently been installed to address issues with vehicles parking too close to junctions and on the narrow section of Harbour Street leading to the site.

The site will take access via the private caravan park roadway leading through the caravan site. It is noted that the applicant will have to alter the management arrangements of a barrier that restricts access for vehicles along the front of the caravan park. A condition is recommended to ensure that the security barrier does not impede access for vehicles to the proposed café. As the hours of opening will vary depending upon the time of season, the café and caravan site will need to coordinate this requirement together.

The proposal would not impede any publicly accessible footpaths and would have no impact upon the use of the Hopeman to Burghead coastal path to the south of the site. Existing commercial refuse collection arrangements for the caravan site would presumably serve this development also. It should be noted, the applicant has confirmed that the double decker bus, currently sited at this location and containing dining tables, will be moved away from this area, and will not be utilised to provide extra space for additional covers.

The proposal is not of a scale that would result in a detrimental increase in traffic on the local road network, and would therefore not depart from the traffic and infrastructure requirements of the policy DP1 or part (ii) of policy PP3 relating to Transportation. The conditions recommended ensure compliance with policy and the provision of adequate infrastructure associated with the site.

### **Siting, Design and Materials within Special Landscape Area (PP1, DP1 & EP3)**

The settlement statement for Hopeman states that the distinctive character of the village should be safeguarded. The site also lies close to the foreshore area, the protection of which is a further objective of the Hopeman settlement statement. The site is also located within the Burghead to Lossiemouth SLA where the Council seeks to encourage the highest standards of design and in line with policy EP3 Special Landscape Areas and Landscape Character. Furthermore, as the proposal lies within the existing settlement boundary it must comply with the requirements of any settlement statement in which it is located (in this case T1 Hopeman Caravan Park).

DP1 and other relevant policies, seek to minimise adverse impacts on the landscape and visual qualities within the area in which development is located. To this end the site sitting at the west end of the caravan park is bound immediately by an embankment to the south and west, that would partially obscure the building from the east. The design of the building, with a shallow mono-pitch roof would not occupy an overtly prominent position within the SLA, with the existing village more dominant to the south and south east. At approximately 5.6m high the structure would be no higher than a pitched roof single storey building despite accommodating two floors of development. Of note, far more prevalent will be the housing development recently approved within designation R1 Manse Road on higher land directly to the south of the current site. The application site is on a low lying area of land, with an open aspect northward across the caravan site toward the coast, and will be largely obscured from view from the majority of Hopeman and the existing coastal path to the south of it that sits within a cutting. It would not therefore be detrimental to the landscape and visual qualities of the SLA where it lies within the existing caravan site.

The building materials using natural larch cladding on all four elevations will see a natural material sympathetic to its location on the edge of the village. The modular use of shipping containers is of limited significance to the exterior of the building. The use of muted dark grey windows, timber decking, balustrades and larch cladding on vertical faces ensures that observers are not unduly drawn to view the building by virtue of its materials. While the building will appear as a bespoke café, unlike other buildings in the village, its discrete location, traditional materials and low profile will ensure it causes no negative impact upon the wider SLA. There are other timber clad buildings close to shore in Hopeman at the harbour, Sea Park and the beach huts toward the east of the village. The plainer facades of the café face the customer parking and embankment to the south and would not be prevalent from the village to the south east and east. The requirement within policy EP3 to reflect the traditional settlement character in terms of siting and design is less pertinent to a one off development such as this, where only one caravan park exists in the village, and

the designation allows for a café within the designation. Design and materials of residences within Hopeman vary according to the age of the properties.

The re-introduction of gorse around the building will also in time assist its integration with the existing gorse areas to the south. Of note policy EP3 Special landscape Area and Landscape Character does not seek to veto development within settlements and where the proposed café sits within the caravan park in an area of land that has already been cleared and levelled for that purpose, it would not fundamentally change the landscape area of the land upon which it is proposed.

The proposed parking would also site within a discrete location, adjacent to the proposed café and within the existing caravan site. The parking would only be visible from very limited vantage points at the north-west edge of the village, and vehicles would also typically be present at the touring caravan pitches anyway, so no change in character will occur.

In terms of siting, design and materials the proposal is appropriate to the surrounding area and its location, policy DP1 (i)(a) and policy PP1 Place making (i) and EP3.

### **Drainage and flood issues (DP1, EP12 and EP13)**

Policy EP12 Management and Enhancement of the Water Environment seeks to ensure that all development is appropriately drained, and does not cause any environmental issues, nor contribute to flooding if applicable on site. The applicants submitted a Site Investigation & Drainage Assessment which confirms that the permeability of the site is sufficient to accommodate a surface water soakaway. As the final position of the surface water soakaway has not been shown on amended plans, a condition is recommended to ensure this soakaway is provided in accordance with the submitted assessment.

The T1 designation refers to discouraging development within 5m above sea level to avoid the possibility of coastal flooding. The submitted information show the development with a finished floor level of 9.6m above ordnance datum. The proposal also sits to the south of already developed pitches within the extended caravan site, so will not be introducing development into an area currently devoid of development.

The designation requires a Flood Risk Assessment to be carried out for development within the T1 designation. The application has been submitted with an accompanying Site Investigation & Drainage Assessment. It is noted that this specific area is not recorded as being susceptible to surface water, coastal or river flooding and from inspection of the site, the very sandy, permeable ground conditions would not give rise to flood issues.

Scottish Water have raised no objection to the principle of the development connecting to the public water supply, but comment that the sewer does not reach this location yet. The applicants are aware of this and have indicated their intent to connect the development to the existing sewer connection serving the caravan site. The drainage infrastructure requirements of policy DP1 Development Principles (ii) (c) & (iii) (a) and policy EP12 Management and Enhancement of the Water Environment and EP13 foul Drainage have been satisfied.

### **Protected Species & Biodiversity (EP1 & EP2)**

This site has already been cleared of gorse, regraded and has since circa 2017 been a managed area of land within the Hopeman caravan park. The activity in the form of the fast food takeaway and caravan site use results in a level of human activity that will

witness limited ecological or habitat value. The proposal does now include however landscaping details that would see coastal grasses and gorse re-introduced around the building to see it better blend into the remaining gorse area to the south. This would hopefully re-introduce some appropriate flora to the site, most likely to compliment the gorse habitat to the south. No protected species will have been present within the site.

Given the current condition of the site the proposals are acceptable in relation to biodiversity and comply with policy EP2.

### **Other issues**

Policy EP6 Settlement Boundaries discourages any development immediately outwith settlement boundaries, but as the site falls entirely within the settlement boundary, no departure from this policy occurs.

In terms of any impact on amenity policies DP1 Development Principles and EP14 Pollution, Contamination & Hazards the proposed café will operate seasonally, during the day predominantly, and no later than 9pm during the peak of the season. The café would sit approximately 100m from the nearest residence on Duff Street and it is not considered that it would have any detrimental impact upon residential amenity. The café would also sit below the nearest properties on Duff Street, which lie further inland and higher than the proposed development. As it sits within the existing caravan park, it would not be within the interests of the site operator to allow the café to generate excessive noise or odours where patrons of the caravan park itself would be expecting a reasonable degree of amenity. The orientation of the decking and balcony seating also faces northward away from the village and it is not therefore anticipated that any noise, odour or lighting issues would arise.

There are no contaminated land issues recorded at this location for this site causing concern under policy EP14.

### **Conclusion**

The proposal has attracted a large number of representations of support, but also a notable number of representations opposed to the development. Notwithstanding any strength of feeling in either direction, the proposals required to be determined subjectively against the MLDP and the T1 caravan park designation specifically identifies the capacity for a café in this location. The proposed café, taking note of its size and anticipated number of covers, will not manifest in any detrimental impact upon the wider village or existing food outlets. The proposed café is also located in a discrete location within the Special Landscape Area (SLA) and within the currently operating caravan park, so will not have unacceptable impacts upon the coastal landscape and visual quality of the area.

The proposed café is proportionate in scale to the size of the caravan site, and is well located so as to have minimal impact or effect on village residents to the south east.

**REASON(S) FOR DECISION**

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

The proposal accords with the relevant policies of the Moray Local Development Plan 2020 and no material considerations indicate otherwise.

**Author/Contact  
Officer:**

Neal MacPherson  
Principal Planning Officer

**Ext:** 01343 563266

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





## **APPENDIX**

### **POLICY**

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

##### **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.

##### **PP1 PLACEMAKING**

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
  - (i) **Character and Identity**
    - Create places that are distinctive to prevent homogenous 'anywhere' development;
    - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
    - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
    - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;

- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

**(ii) Healthier, Safer Environments**

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

**(iii) Housing Mix**

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

**(iv) Open Spaces/Landscaping**

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active

travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

**v) Biodiversity**

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

**(vi) Parking**

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.

- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

**(vii) Street Layout and Detail**

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

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

**PP3 INFRASTRUCTURE & SERVICES**

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

- a) 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 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

**(ii) Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.



- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

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

- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

## **DP5 BUSINESS & INDUSTRY**

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

- b) Business Parks**

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

- c) Industrial Estates**

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

- d) Existing Business Areas**

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

- e) Other Uses**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the

supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

**f) Areas of Mixed Use**

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

**g) Rural Businesses and Farm Diversification**

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

**h) Inward Investment Sites**

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

**DP7 RETAIL/ TOWN CENTRES**

**a) Town Centres**

Developments likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities must be located in town centres.

Within Core Retail Areas (identified on settlement maps, CRA), at ground level, only development for Use Class 1 Shops, Use Class 2 Financial, professional and other

services, or Use Class 3 Food and drink will be supported. Above ground floor level residential use will, in principle, be supported as an appropriate use.

Proposals must be appropriate to the scale, character and role of the town centre (Table 6) and support a mix of uses within the town centre. Proposals that would lead to a concentration of a particular use to the detriment of the town's vitality and viability will not be supported.

**b) Outwith Town Centres**

Outwith town centres, development (including extensions and sub-divisions) likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities must;

- a) Demonstrate that no sequentially preferable sites are available. Locations will be considered in the following order of preference;
  - Town centres (as shown on settlement maps).
  - Edge of centre.
  - Commercial Centres (as shown on settlement maps, CC).
  - Brownfield or OPP sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.
  - Out of centre sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.
- b) Demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the network of town centres (Table 6), where appropriate by a Retail Impact Assessment.

Flexibility will be allowed to ensure that community, education and health care uses are located where they are easily accessible to the communities they serve.

**c) Neighbourhood Retail**

Small shops that are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary will be supported. Depending on scale, proposals may be required to demonstrate that they will not have an unacceptable adverse impact on the vitality and viability of the network of town centres (Table 6), by a Retail Impact Assessment or Retail Statement. Within a neighbourhood one unit of up to 400m<sup>2</sup> designed to meet the day to day convenience needs of the neighbourhood will be supported. Other small units of up to 150m<sup>2</sup> that contribute to creating a mix of uses in a neighbourhood centre/hub will be supported. This could include small retail uses (Class 1 non-food), financial and professional services (Class2) and cafes and small restaurants (Class 3). Neighbourhood hubs/centres should aim to contribute to the sense of community and place, the sustainability of an area, reduce the need to travel for day to day requirements and provide adequate parking and servicing areas.

Change of use of established or consented neighbourhood retail units will only be supported where it can be demonstrated that active marketing has failed to find a retail use for the premise. For a change of use to be considered, the premises must have been vacant and actively marketed for a minimum of three years at an appropriate market rent/value. Where the unit is part of a consent for wider development, the three year marketing period will be counted from the completion of the development as a whole i.e. change of use of a retail unit will not be considered

half way through completion of a development or in the three years after the completion of the whole development.

**d) Ancillary Retailing**

See policy DP5 Business and Industry in respect of ancillary retailing to an industrial or commercial business.

**e) Outwith Settlement Boundaries**

Outwith settlement boundaries, proposals for small scale retail development will only be supported if these are ancillary to a tourism or agricultural use. Small scale extensions to existing retail activity will only be supported where this does not undermine the vitality and viability of the network of town centres (Table 6).

**DP8 TOURISM FACILITIES AND ACCOMMODATION**

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

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

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

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

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

**EP2 BIODIVERSITY**

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

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

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

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity

features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

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

## **EP6 SETTLEMENT BOUNDARIES**

Settlement boundaries are drawn around each of the towns, villages and rural groupings representing the limit to which these settlements can expand during the Local Development Plan period.

Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released under the terms of Policy DP3.

## **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.

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

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

### **EP13 FOUL DRAINAGE**

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

### **EP17 COASTAL CHANGE**

New development will not generally be supported in areas that are vulnerable to adverse effects of coastal erosion and/or wider coastal change as identified in Scotland's Dynamic Coast project (National Coastal Change Assessment).

In vulnerable areas, proposals for new developments will only be permitted if they demonstrate that they:

- are adaptive to anticipated coastal change, and
- avoid the need for coastal defence measures over their lifetime, and
- will not have a detrimental impact on coastal processes.

Beyond this, only in exceptional circumstances will proposals within areas vulnerable to coastal change be approved and only where it has been demonstrated that there are:

- no alternative solutions, and
- imperative reasons of over-riding public interest including those of a social or economic nature.

## **T1 Hopeman Caravan Park**

### **Suitable Uses**

- This must remain as a holiday caravan site as part of Hopeman's tourism infrastructure. Development for alternative uses will not be permitted.
- Ancillary facilities appropriate to tourist development, such as a shop, café, laundry and shower facilities will be supported within this area.

### **Site specific requirements**

- In order to protect the foreshore to the north, further expansion beyond the boundary of the caravan park will not be permitted.
- Development on land below 5m AOD must be avoided due to the risk of coastal flooding.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Development to be connected to mains water and sewerage, or otherwise to demonstrate that there will be no adverse effect on the integrity of the Moray Firth Special Area of Conservation (SAC) or the proposed Moray Firth Special Protection Area (pSPA) or cause changes in water quality affecting the habitats and prey species that SAC and pSPA qualifying interests rely on.