

## WARD 05\_17

**22/00161/APP**  
**18th February 2022**

**S42 to vary condition 1 (delivery of affordable housing) and 8-11 (phasing) of application reference 19/00100/APP at R1 Kinneddar Lossiemouth Moray for Tulloch Of Cummingston Ltd**

---

### **Comments:**

- The application is on a housing site designated for 50 houses within the Development Plan.
- The application has previously been reported to committee and the current proposal represents a significant change.
- The application was advertised for neighbour notification purposes.
- 2 representations have been received.

### **Procedure:**

- Modification of a legal agreement regarding developer obligations prior to issue of consent.

### **Recommendation**

Grant Planning Permission - subject to the following:

### **Conditions/Reasons**

1. For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the approved plans, and the supporting documents including inter alia the Noise Impact Assessment and Construction Traffic Management Plan submitted under 19/00100/APP.

**Reason:** In order to clarify the terms of permission.

2. As part of the permission hereby granted, the 76 affordable house units (as identified on approved drawing KM/S42/22/04 shall only be used for affordable housing purposes in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord to enable the long term delivery of affordable housing on this site and shall remain affordable housing in perpetuity.

**Reason:** To ensure an acceptable form of development in terms of the required

provision and delivery of the affordable housing units proposed for this site, wherein the benefits of such provision are passed on to serve the community in future years.

3. No works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the Aberdeenshire Council Archaeology Service, and approved by the Moray Council (as Planning Authority). Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the Aberdeenshire Council Archaeology Service.

**Reason:** To safeguard and record the archaeological potential of the site.

4. Prior to the commencement of works a detailed plan of public access across the site (during construction and upon completion) must be submitted to and approved by the Council (as Planning Authority) in consultation with the Moray Access Manager. This must show:
  - a) Details of any existing paths within the site;
  - b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
  - c) All paths and tracks proposed for construction, for use by walkers, riders, cyclists, all ability users, etc. inclusive of the proposed link from the site towards Lossiemouth High School;
  - d) Any diversions or paths - temporary or permanent - proposed for the purposes of the development and;
  - e) Details of how public access and movement through the site will occur between the different approved Phases 1 - 11 of the development. The development must thereafter be carried out strictly in accordance with the approved public access plan unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** In order to ensure public access is maintained during and after the construction period.

5. Acoustically attenuated trickle ventilators shall be provided in the western, northern and southern elevations of lounge and bedroom apartments on plots 1 to 16, 81 to 93, and 94 to 98. They should have an element normalised level difference  $D_{n,e}$  of at least 39dB in the 500Hz octave band. If two trickle ventilators are to be installed in a given room, the  $D_{n,e}$  should be 42dB, and should four trickle ventilators be installed the  $D_{n,e}$  should be 45dB, as stated in accordance with Section 4.12 of the noise impact assessment supporting document dated 28th January 2018, titled "Report on Air Traffic Noise For Tulloch of Cummingston At Sunbank, Lossiemouth, Moray" and provided by Charlie Fleming Associates Limited, Acoustic Consultants, 5 Saltpans, Charlestown, Fife KY11 3EB.

The above mitigation, in combination with the overall building insulation, shall ensure that internal noise levels in the lounge and bedroom apartments at the development associated with external aircraft noise shall not exceed a sound pressure level L A eq 16 hour (0700 to 2300 hours) of 35 dB, as determined with windows closed and trickle ventilators open.

**Reason:** In order to ensure adequate noise insulation is provided for residences closest to the airbase.

6. Unless otherwise agreed in writing with the Council (as Planning Authority), double glazed external windows installed in the western, northern and southern elevations of lounge and bedroom apartments on plots 1 to 16, 81 to 93, and 94 to 98 shall consist of 4mm and 8mm thick panes of normal float glass separated by a 12mm cavity. The specification and acoustic performance shall be in accordance with Section 4.13 of the noise impact assessment supporting document dated 28th January 2018, titled "Report on Air Traffic Noise For Tulloch of Cummingston At Sunbank, Lossiemouth, Moray", and provided by Charlie Fleming Associates Limited, Acoustic Consultants, 5 Salt pans, Charlestown, Fife KY11 3EB.

**Reason:** In order to ensure adequate noise insulation is provided for residences closest to the airbase.

7. Beyond the noise insulation requirements specified in conditions 4 and 5 above, prior to development commencing a further scheme of aircraft noise mitigation for the residences and commercial units must be submitted to and approved by the Council as Planning Authority (in consultation with the Ministry of Defence) incorporating the following noise insulation measures in all buildings;-
  - a) Acoustic lagging in the roof space,
  - b) Installation of an acoustic double glazing system which should be at least 6.4mm PVB (polyvinyl butyral) laminated for individual panes (12- 10mm together),
  - c) Installation of sound attenuating ventilation units (to provide a fresh air flow to the property whilst allowing the glazing to remain closed and provide maximum attenuation of the noise).

The development must thereafter be carried out strictly in accordance with the scheme of aircraft noise mitigation approved and be retained in perpetuity.

**Reason:** In order to ensure adequate noise insulation is provided for residences closest to the airbase.

8. Prior to the commencement of development a scaled plan (1:100) must be submitted for approval by the Council as Planning Authority in consultation with the Roads Authority which details the parking provision and allocation of spaces in accordance with Moray Council Parking Standards (including disabled, motorcycle and cycle parking provision) for the retail units and also details of the provision for deliveries and servicing of the retail units. The approved parking/access arrangements shall then be provided prior to any of the retail units coming into operation.

**Reason:** To ensure acceptable form of development and confirmation of parking and servicing arrangements.

9. The development shall be completed in accordance with the approved phasing plan KM/S42/22/04 unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

10. No more than 24 housing units (4 existing + 20 new) in Phase 1 shall take access from Fisher Place until the approved access is provided from the B9135 and a connection has been made and opened to the public between the B9135 and Phases 1 and 2 as shown on Drawing 02 Phasing Plan Rev J.

**Reason:** To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

11. No more than 23 housing units (5 existing + 18 new) in Phase 2 shall take access from Halliman Way until the approved access is provided from the B9135 and a connection has been made and opened to the public between B9135 as shown on Drawing 02 Phasing Plan Rev J.

**Reason:** To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

12. Phase 1 and Phase 2 of the development shall not be connected via the proposed development site roads until the approved access is provided from the B9135 and a connection has been made and opened to the public between the B9135 as shown on Drawing 02 Phasing Plan Rev J.

**Reason:** To ensure vehicular access is provided in accordance with phasing to ensure adequate servicing of the development.

13. Prior to commencement of construction on the 6th housing unit within Phase 1 the improvement works identified on plans at the junction of Coularbank Road with the A941 shall be completed to the satisfaction of the Council as Planning Authority in consultation with the Roads Authority.

**Reason:** In the interests of road capacity and the provision of off-site infrastructure required to support the development.

14. No part of the development taking access from the B9135 shall be connected to Boyd Anderson Drive via either Halliman Way or Fisher Place until evidence has been provided that the statutory process for the implementation of traffic calming on Boyd Anderson Drive has been concluded and any works required have been approved and delivered to the satisfaction of Council as Planning Authority in consultation with the Roads Authority.

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

15. Construction traffic movements within the site shall accord with the principles set out within the approved Construction Traffic Management Plan unless agreed otherwise in writing with the Council as Planning Authority in consultation with the Roads Authority.

**Reason:** In the interests of road safety for all road users.

16. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

17. Parking provision shall be provided in accordance with Moray Council Parking Standards as follows:
- a) 2 spaces up to 3 bedrooms.
  - b) 3 spaces for 4 or more bedrooms.
  - c) 1.5 spaces per flat (Private up to 2 bedrooms).
  - d) 1 space per flat (Affordable up to 2 bedrooms).

**Reason:** To ensure there is acceptable parking provision within the development.

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

**Reason:** To ensure an acceptable form of development, safeguarding the public road in the interests of road safety.

19. Housing units requiring 2 or more parking spaces shall have a driveway length of 6.0m minimum in front of any garage to permit a second car to park, unless alternative parking arrangements are submitted to and given prior written approval by the Council as Planning Authority (in consultation with Roads Authority). No part of the driveway shall be included in the public road.

**Reason:** To ensure an acceptable form of development.

20. Off-Street parking provision shall be outwith visibility splays.

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

21. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam.

**Reason:** To ensure an acceptable form of development.

22. Unless otherwise agreed with the Council as Planning Authority prior to commencement of development, the developer shall provide to the Council as Planning Authority:

- a) Acceptance in writing from Scottish Water that they shall adopt and maintain the surface water sewers and detention basins.
- b) Acceptance in writing from The Moray Council as Roads Authority that they shall adopt and maintain the roadside filtration trenches.

**Reason:** To ensure the surface water assets are properly maintained to an acceptable standard and to clarify where responsibility for them lies.

23. Unless otherwise agreed in writing with the Moray Council (in consultation with SEPA);-
- a) A minimum 600mm freeboard is maintained between the 1 in 200 year plus climate change water level and finished floor levels (unless otherwise agreed by the Moray Flood Risk Management Team).
  - b) Watercourse crossings are appropriately designed to be able to convey the 1 in 200 years plus climate change flow without increasing flood risk elsewhere.
  - c) If applicable, further information is submitted to and approved by the Moray Council (in consultation with SEPA) to demonstrate that any re- profiling of watercourse banks, or land adjacent to the banks, would not increase flood risk elsewhere.

**Reason:** To protect people and property from flood risk.

24. No development shall commence on site until a site specific Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Council as Planning Authority in consultation with (SEPA (and SNH or other agencies as appropriate). All works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** In order to minimise the impacts of necessary demolition/construction works on the environment.

25. No development shall commence until details of arrangements for the time-scale(s) for all new planting to be undertaken together with the arrangements for the long term maintenance of all proposed landscaping arrangements have been submitted to and approved by the Council as Planning Authority. Thereafter, the landscaping planting arrangements and maintenance arrangements shall be carried out in accordance with the approved details.

**Reason:** In order that detailed consideration can be given to the landscaping arrangements and to ensure ongoing maintenance is in place for the landscaped areas of the site.

26. In relation to the approved Landscape Scheme details, any trees or shrubs which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council as Planning Authority gives written consent to any variation of this planning condition.

**Reason:** In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

27. Prior to the commencement of development, details of an equipped play area (as identified within the Phase 5b of the approved Phasing Plan) including the means of separation from vehicular traffic and provision and maintenance arrangements shall be submitted for the written approval of the Council as Planning Authority. The equipped play area shall be completed and available for use prior to the occupation of the first housing unit in Phase 5b. All work shall be carried out in accordance with the approved details.

**Reason:** To ensure the adequate provision of an equipped play area in line with Moray Council Supplementary Planning Guidance - Developer Requirements for Housing.

28. Unless otherwise agreed in writing with the Council as Planning Authority (in consultation with the Ministry of Defence) for plots 77-93 and 119-130 no roof mounted or ground based solar panels, metallic superstructures, metal roof cladding or metallic garage doors shall be permitted on any of the dwellings or upon any outbuildings within these plots. Permitted development rights relating to extensions, outbuildings and domestic renewable energy equipment for the above plots is hereby removed. Therefore, notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 2011 (or any order revoking or modifying that order) no development specified in Schedule 1, Parts 1, 1A (Page 8 of 17) and 1ZA, within Classes 1, 2B, 3A, 3B, 4A, 6A, 6B shall be carried out without the prior approval of the Council as Planning Authority. This restriction shall similarly apply to any future change or modification of the development types covered by the above specified Permitted Development Classes.

**Reason:** To ensure that no permitted development occurs within the affected plots (identified above), which may cause a distraction or hindrance to aircraft or air traffic control, in the interests of National Security.

29. The 20 housing units agreed and designated as the 'Accessible' units as defined in Moray Local Development Plan 2015 Supplementary Guidance - Accessible Housing shall remain as 'accessible' housing unless the prior written consent of the Council as Planning Authority in consultation with the Moray Council Head of Housing & Property has been granted.

**Reason:** To ensure an acceptable form of development in terms of the delivery of housing mix and provision of accessible housing.

30. The use of the four retail units identified within Phase 9 of the development shall relate to Class 1 Shops as defined under the Town and Country Planning (Use Classes)(Scotland) Order 1997 as amended and for no other purpose without the prior written agreement of the Council (as Planning Authority).

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

31. The surface water drainage system must be provided in accordance with the revised Drainage Impact Assessment (Revision E dated July 2022) and approved drawing KM/DR/22/01.

**Reason:** In order to ensure that surface water is appropriately managed.

32. Prior to any development commencing, the following details must be submitted to and approved in writing by the Council as Planning Authority (in consultation with the Ministry of Defence):-
- a) Specific landscaping and maintenance arrangements further to the submitted 'Landscaping' 06 Rev C must be submitted showing the use of and precise position of indigenous, non-fruit bearing tree species such as Birch, Hazel, Alder, Wych Elm or Scots Pine. Details must include the specific maintenance programme of keeping the height of trees to a height below 10m above ground level for the duration of their existence. These further landscaping details must be follow the guidance contained within the Civil Aviation Authority Advice Note 3 'Potential Bird Hazards from Amenity Landscaping & Building Design'.
  - b) Confirmation of landscaping arrangements surrounding the detention ponds which must be managed cut grass or hard surfacing so as not to encourage the use of the basins by birds during any periods when they are holding water. The design of the basins must also ensure that flow rates allow the basins to empty within 48 hours following any periods of high rainfall, thereby minimising the period where birds could land on the water. The management and maintenance of the Surface Water Sustainable Urban Drainage Scheme (SUDS) must be follow the guidance contained within the Civil Aviation Authority Advice Note 6 'Potential Bird Hazards from Sustainable Urban Drainage Schemes (SUDS)'.

**Reason:** To avoid endangering the safe movement of aircraft and the operation of RAF Lossiemouth through the attraction of birds and an increase in the bird hazard risk of the application site.

33. No construction traffic shall access the site from Boyd Anderson Drive.

**Reason:** To protect the residential amenity of neighbouring properties.

#### **Reason(s) for Decision**

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

Notwithstanding the deviation from policy PP3 (a) (iv) in relation to the provision of EV charging subject to conditions as recommended, the siting, design and servicing of the development are considered acceptable and otherwise accord with the development plan with no unacceptable or significant adverse effect upon the surrounding environment and there are no material considerations that indicate otherwise.



### **List of Informatives:**

The following notes are provided for your information including comments received from consultees:-

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

The Street lighting type must be selected taking into consideration the requirements of the Ministry of Defence to use street lighting that is properly hooded with no overspill, so as not to distract air crew taking off or approaching the airbase.

A Building Warrant will be required for the proposals.

The development is subject to a S.75 legal agreement in regard to arrangements for payment of developer obligations to address the impact of the development upon healthcare.

HISTORIC ENVIRONMENT SCOTLAND has commented that:-

The Kinneddar, Bishop's Palace scheduled monument area should be temporarily fenced off (with the fence outwith the scheduled area) for the duration of the construction works.

THE ENVIRONMENTAL HEALTH MANAGER, DEVELOPMENT SERVICES, has commented that:-

The landscape maintenance arrangements should include clarification of the collection arrangements for any dog bins provided.

SCOTTISH NATURAL HERITAGE has commented that:-

The developer is reminded of their obligations to protect breeding nesting birds, and suggest that scrub removal should ideally take place outwith the bird nesting season in late spring early summer.

MORAY FLOOD RISK MANAGEMENT has commented that:-

Following completion of development as-built drawings of all foul and surface water drainage infrastructures should be provided in an acceptable format to the Senior Engineer (Flood Risk Management) in order to comply with the Flood Risk Management (Scotland) Act 2009.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Before commencing development, the applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads. The applicant will be required to provide technical

information, including drawings and drainage calculations. Advice on this matter can be obtained from the Moray Council web site or by emailing [road.maint@moray.gov.uk](mailto:road.maint@moray.gov.uk)

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

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

Street lighting is required as part of this development proposal and the applicant must contact the Street Lighting Section at Ashgrove Depot to discuss the proposals.

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

The applicant and any future property owner shall be responsible for ensuring that surface/ground water does not run from the public road into the property.

The applicant shall ensure that their operations do not adversely affect any Public Utilities, which should be contacted prior to commencement of operations. The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

The Transportation Manager must always be contacted before any works commence. This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

All outfalls to the water environment (including from basins) should also be approved by SEPA. A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a

construction site, including access tracks, which: is more than 4 hectares, is in excess of 5km, or includes an area of more than 1 hectare, or length of more than 500m, on ground with a slope in excess of 25.

Please see SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office. Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment.

Any material re-used on the site, taken from the site, or brought onto the site, should be done so in line with current guidance, best practice and regulation, and authorisation from SEPA may be required.

For information on the above, or for details of other regulatory requirements and good practice advice, the applicant is advised to view the Regulations section of our website or contact Lucy Summers, Environment Protection Officer in our Elgin office on 01343 547663.

If you have any queries relating to this letter, please contact Jessica Fraser by telephone on 01224 266698 or e-mail at [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk)

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
KM-MP-01		Location plan
KM-S42-22-01		Master plan
KM-S42-22-02		Master plan
KM-S42-22-03		Phasing plan
KM-S42-22-04		Phasing plan
KM-S42-22-05		Block plan
KM - PP - AH - 2B3P - 02		2 bed 3 person units - corner plots
KM - PP - AH - 1B2P - 01		1 bed 2 person units x 4(Quads))
KM - PP - AH - 1B2PF - 01		1 bed 2 person flats
KM - PP - AH - 2B3P - 01		2 bed 3 person units
KM - PP - AH - 3B5P - 01		3 bed 5 person units
KM - PP - AH - 3B6PH - 01		3 bed 5 person house detached
KM - PP - AH - 3B6PSD - 01		3 bed 6 person semi detached
KM - PP - AH - 3B6PSD - 02		3 bed 6 person semi detached
KM - PP - AH - 4B7PSD - 01		4 bed 7 person semi detached
KM - PP - AH - 5B9P - 01		5 bed 9 person house detached
KM-S42-22-07		Parking layout
KM-S42-22-06		Landscaping





## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**  
**22/00161/APP**

**Site Address:**  
**R1 Kinneddar**  
**Lossiemouth**

**Applicant Name:**  
**Tulloch Of Cummingston Ltd**

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

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

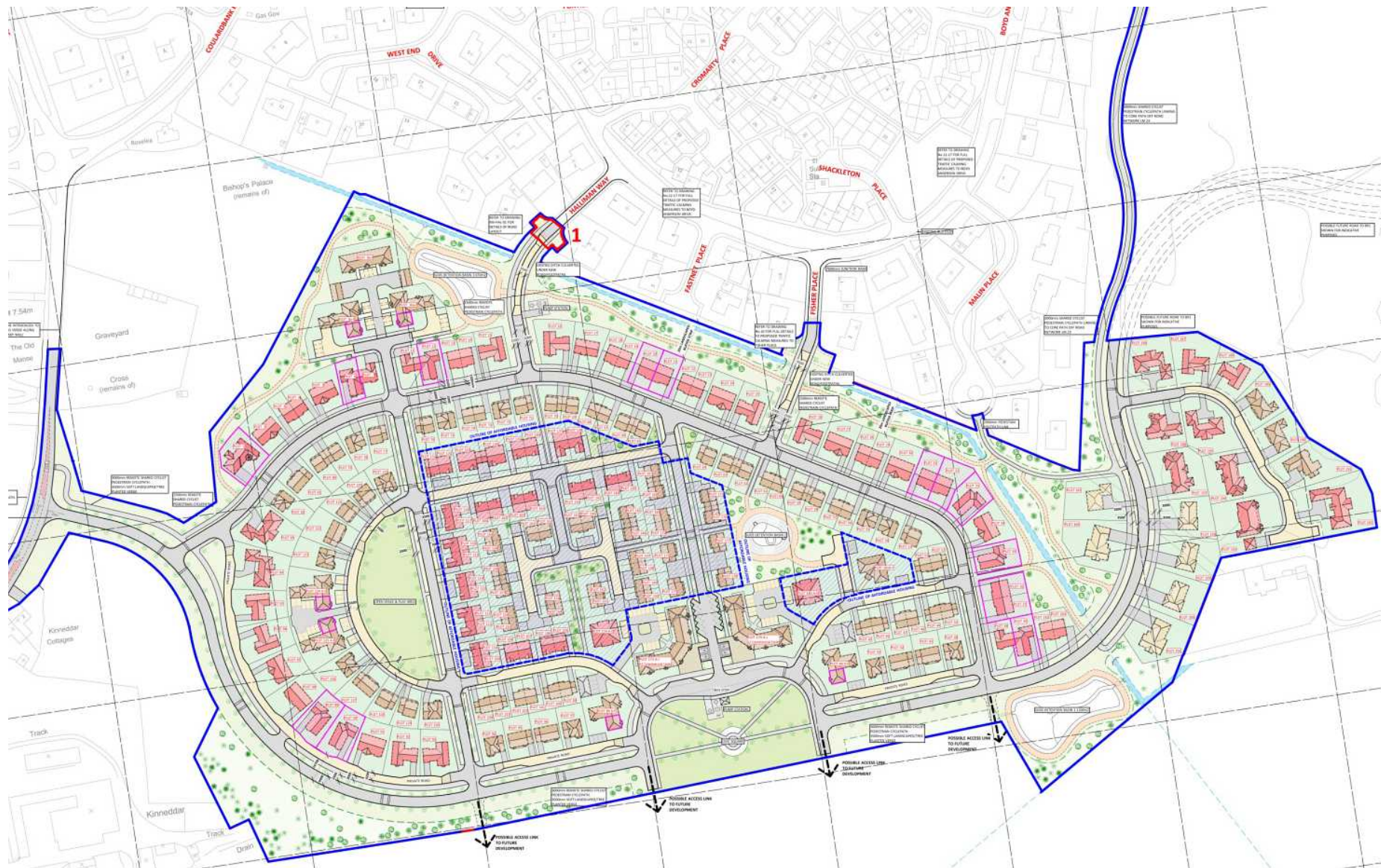
Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission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

## Location Plan





## Site Location





Block plan





Landscape plan





Master plan























## PLANNING APPLICATION: 22/00161/APP

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

---

### 1. **THE PROPOSAL**

- This application seeks to vary condition 1 (delivery of affordable housing) conditions 8-11 (phasing) and condition 30 (drainage) of application reference 19/00100/APP in order to change the layout to provide 16 additional residential units and increase the overall number of residential units provided from 265 to 275 and overall number of affordable units 74 to 76.
- The change principally relates to the layout and mix of the proposed affordable housing. The overall number of affordable housing units is to increase from 74 to 76 and the mix to provide 24 x 1 bedroom flats, 16 x 2 bedroom bungalows, 2 x 3 bedroom bungalows, 19 x 3 bedroom houses, 14 x 4 bedroom houses, 1 x 5 bedroom house. The previous mix was 6 x 1 bedroom flats, 8x 1 bedroom quads, 24 x 2 bedroom bungalows (2 wheelchair accessible), 6 x 3 bedroom bungalows, 8 x 4 bedroom houses and 4 x 5 bedroom houses. New house types are provided for the amended affordable housing mix.
- The proposals also include re-designating 8 one bedroom flats on plots 164 A-D and 172 A-D (previously 174 A-D & 180 A-D) which were approved as affordable housing to open market housing.
- The conditions relating to phasing are only to be altered to reflect the updated layout of the overall site. No changes to the approved sequencing are proposed.
- The drainage proposals are amended to account for the proposed changes to and incorporate deviations from the approved plans in the development as built so far.
- Work is underway under the existing permission (19/00100/APP).
- The development will be otherwise unchanged.

### 2. **THE SITE**

- The site is covered by the Lossiemouth R1 (Sunbank/Kinneddar) designation in the MLDO 2020 which has an indicative capacity of 261 units.
- The site is on the southern settlement boundary of Lossiemouth as identified in the MLDP 2020.
- The site is to the east of RAF Lossiemouth and is within the noise contours areas associated with the base.
- The Bishop's Palace which is a scheduled monument and Kinneddar Church and graveyard which are category B listed are immediately to the north west of the site.

- There are existing residential areas to the north of the site.
- The main access to the site will be from the west from the B1935 but minor accesses are also provided to the north via Halliman Way and Fisher Place. Two pedestrian links to the north are also provided.

### 3. **HISTORY**

**21/00093/APP** - Vary consent 14/01486/APP to alter access link into Halliman Way at R1 Sunbank, Lossiemouth pending consideration.

**19/00100/APP** - Application under Section 42 to vary conditions 1, 3, 4, 5, 7, 8, 9, 10, 26, 27, 28, 30 and 31 of planning consent 14/01486/APP altering the phasing plans delivery of affordable units (increased by 2 units) delivery of accessible units (increased by 1 unit) site layout details (altering the position of a SUDS basin landscaping and access/footpaths) which increases the total number of residential units to 265 (from 261) at R1 Sunbank, Lossiemouth approved by committee. Date of decision 12/06/20.

**14/01486/APP** - Detailed planning permission for the erection of 261 dwellings and community facilities (4no retail units) with associated roads landscaping amenity areas and infrastructure at R1, Sunbank, Lossiemouth. Approved by committee. Date of decision 11/04/17.

**17/01075/APP** - Vary the phasing layout plans (as approved under condition 8 of a planning approval 14/01486/APP) to relocate SUDS basin 2 and re-position affordable house units at R1, Sunbank, Lossiemouth, Moray. Withdrawn.

### 4. **POLICY - SEE APPENDIX**

### 5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification purposes.

### 6. **CONSULTATIONS**

**Lossiemouth Community Council:** No response at the time of writing the report.

#### **Strategic Planning and Delivery:**

##### **PP1 Placemaking and DP1 Development Principles**

Despite meeting the threshold of 10 units a Quality Audit (QA) is not required for this proposal due to the nature of the amendments proposed. The street layout is not changing significantly and many of the fundamental elements of placemaking including open spaces, landscaping, play area, are outwith the scope of this application. For this reason there is limited scope for assessing all the requirements set out within the QA process.



### PP3 Infrastructure and Services

New development must be planned and co-ordinated and proposals are adequately served by infrastructure and services. Given this a development that is currently under construction and remix application pertaining the affordable housing element a utilities plan showing electricity, gas and water infrastructure serving the site are not required. The applicant has provided justification for not providing the required Electric Vehicle (EV) charging infrastructure explaining that as development has commenced and the site has been under construction for some time the electric sub-station is already in place and the network capacity is sized for the development without EV charging. Furthermore, the sub-station was installed in 2019 along with mains that would serve the social housing and future mains for further phases only. On the basis of the justification provided this is considered an acceptable departure from policy.

### Strategic Planning and Delivery Conclusions

On the basis of the above the proposals are considered an acceptable departure from PP3 Infrastructure and Services as adequate justification explaining the inability to provide EV charging has been provided. Outwith this issue the proposals are considered to meet the requirements of the relevant policies of the Moray Local Development Plan 2020.

**Moray Council Housing:** No objection.

**Moray Flood Risk Management:** No objection to alterations to drainage.

**Transportation:** No objection.

**Environmental Health:** No objection.

**Contaminated Land:** No objection.

**Developer Obligations:** Developer Obligations sought in relation to healthcare provision.

**Moray Access Manager** No objection.

**Archaeology:** No objection.

**Ministry of Defence:** No objection.

**SEPA:** No comments made.

**Scottish Water:** No objection.

**Nature Scot:** No response at the time of writing the report.

**Historic Environment Scotland:** No comment.

## 7. **OBJECTIONS-REPRESENTATIONS**

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

[REDACTED]  
[REDACTED]

**Issue:** The application site includes land within the contributor's ownership.

**Comments (PO):** The land ownership certificate has been updated and the correct notice served on the land owner. The inclusion of third party land is a matter between the developer and the land owner.

**Issue:** The impact of traffic associated with the increased number of units.

**Comment (PO):** The traffic impacts have been assessed and the Transportation Manager has no objection. The anticipated increase in traffic would warrant refusal of the planning application.

**Issue:** Compliance with Designing Streets.

**Comment (PO):** The proposal has been considered against national and local policy including the Scottish Government Document Designing Streets. It must be recognised that layout of the wider site is fixed under the previous consents and development is underway. The final layout reflects a pragmatic approach to ensuring the good quality outcomes within the limitations of the approved development.

**Issue:** Compliance with conditions requiring the provision of footways and cycle paths.

**Comment (PO):** The conditions of the previous consent will remain unaltered but at the time of writing the footways had been provided.

**Issue:** The condition preventing construction traffic from entering the building from Boyd Anderson Drive must be reiterated.

**Comment (PO):** The conditions of the previous consent will remain unaltered.

**Issue:** Condition 10 & 11 which restrict the number of units that can be provided before the access from the B1935 has been formed and a connection between phases 1 and 2 provided.

**Comment (PO):** The conditions of the previous consent will remain unaltered but the access from the B1935 has now been opened and the connection between phases 1 and 2 is open.

## 8. **OBSERVATIONS**

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

- 8.2 This application is submitted under Section 42 of the planning act which allows for applications for a new planning permission or new planning permission in principle for a development but with different conditions from those attached to a previous permission for that development. In determining a Section 42 application, the Planning Authority may consider only the issue of the conditions to be attached to any resulting permission.
- 8.3 For the avoidance of doubt the effect of granting a Section 42 application is such that a new permission exists for the development. Therefore it is recommended all those conditions from the previous permission which still apply must be reiterated.
- 8.4 **Placemaking (PP1)**  
Work is well underway on this site under the current planning permission (19/00100/APP). This permission was itself the result of a Section 42 application in relation to an application (14/01486/APP) approved in 2015. The current application seeks to alter the affordable provision and drainage arrangements only. The street layout is not fundamentally changing and the provision of open space and play areas will be unaltered. These matters are outwith the scope of this application. A placemaking statement has been provided but a Quality Audit (QA) was not required in this case due to the nature of the changes proposed.
- 8.4.1 The layout of the amended affordable housing provision is largely dictated by the approved layout of the wider site. The proposal will result in an additional 10 units in the development. This does increase the density of development in the central part of the site particularly in the northern part of the area affected by this application around plots 135 & 136. The applicant has advised that plots 135-136 which are 1 bedroom bungalows arranged in a back to back 'quad' formation cannot be accommodated elsewhere in the site and there is a requirement for them to be delivered early in the build programme. The plans have been altered to break up the parking and provide additional planting. This will reduce the impact and is considered to be acceptable. The introduction of the 4 blocks of flats in the central courtyard replacing 4 sets of semi-detached properties and the 2 blocks of flats replacing 3 linked properties is acceptable and not considered to constitute over development. The changes relate well to the already approved development and the amended layout will form a coherent and well integrated part of the overall scheme. The amendments will contribute to the creation of a successful place in accordance with policy PP1.
- 8.5 **Character and Identity (PP1)**  
Two character areas have been identified within the part of the site which would be altered by this consent. A central area formed by plots 141-152 forms one character area while the remaining plots altered by this consent will form the other. It is noted that the rest of the layout pre-dates the current plan and no explicit character areas were identified as part of the original consent. New houses types are proposed to reflect the altered housing mix but the style and finish of the proposed units is in keeping with those already approved some of which are built and occupied. To create distinctiveness between the two areas a different colour of roughcast will be used for each area along with different colour finishes in the areas of hardstanding. The differentiation in road colouration will also help reinforce the street hierarchy within this part of the

development. The proposals will sit comfortably alongside the rest of the consented development and will serve to create a distinctive place with strong character. The proposals comply with policy PP1.

**8.6 Landscaping and open space (PP1, & EP5)**

A landscaping plan has been submitted but it is a condition of the existing permission that further landscaping details are provided which take account of MOD requirements that no berry bearing trees are provided on site as they attract birds. This condition will be reiterated and further details will be required which will be implemented in accordance with the timescales agreed as part of condition 25 of the permission.

- 8.6.1 The open space provision is unchanged from the previous approval. The provision of the play park is controlled by the conditions of the previous consent which will be reiterated.

**8.7 Affordable Housing (DP2)**

The current application seeks to change the layout and housing mix and increase the number of affordable units from 74 to 76. Eight one bed room flats (plots 164 & 172) which were previously identified as affordable units are to be re-designated as open market housing. Policy DP2 requires 25% of all developments of 4 or more units to identify 25% of the units as affordable. In this case 275 units are proposed therefore 69 affordable units are required for this development. A further six units are been provided here as part of the contribution required on the nearby Inchbroom development (21/01670/APP). One additional unit is provided as part of this application. This is provided as a 'windfall' and cannot be used to offset affordable housing contributions for future developments. The Housing Manager is content with the housing mix proposed. The condition of the previous consent requiring this element of the development to remain affordable housing in perpetuity will be reiterated. The proposal complies with policy DP2 in relation to the provision of affordable housing.

**8.8 Drainage (DP1 & EP12)**

The current application seeks to amend the approved drainage arrangements for the whole site. The most significant change is in the north west of the site where an additional attenuation basin is to be provided to the rear of plot 9. A revised Drainage Impact Assessment has been provided which details and justifies the proposals. Moray Flood Risk Management are content with the information that has been provided. A condition is recommended to ensure that the submitted details are implemented in full. Subject to the recommended condition the proposal complies with policy DP1 (iii) and EP12.

**8.9 Access and Parking (DP1)**

The access arrangements are largely unchanged from the previously approved layout. The main access is from the B1935 and this access is now open. There are also accesses onto Boyd Anderson Drive via Halliman Way and Fisher Place. The central part of the site which will be amended by this application is slightly altered along with the parking arrangements associated with the new plans. The new parking proposals comply with the requirement that 50% of parking on each street must be to the side or rear of houses. The parking associated with the new flats (plots 141, 146, 147, 152) does not meet

the requirements in that there are five parking spaces in a row instead of four. In this instance there is limited space to accommodate the spaces elsewhere and given that the wider layout cannot now be altered as the development is underway this minor deviation is considered to be acceptable. No Electric Vehicle (EV) charging is proposed with this development. The applicant has justified this on the grounds that construction has been under way for some time the electric sub-station is already in place and the network capacity is sized for the development without EV charging. Furthermore, the sub-station was installed in 2019 along with mains that would serve the affordable housing and future mains for further phases only. On the basis of the justification provided this is considered an acceptable departure from policy. The Transportation Manager has no objection to the proposals. The proposals comply with policy DP1 (iii) and are considered to be an acceptable departure from policy PP3.

8.10

#### **Developer Obligations (PP3)**

Developer Obligations for the additional units are sought in relation to the extension of Moray Coast Medical practice. The figure required is £6701.20 and the developer has indicated that they will pay up front. There is an existing legal agreement on the site to secure developer obligations in relation to the rest of the site. Some of the triggers for this agreement have been met and the required sums paid but £162,676.58 remains to be paid in 9 triggered instalments. The existing legal agreement will have to be modified to include reference to the current application to ensure that all the money due can be sought as agreed under the previous consent.

#### **Conclusion**

This application seeks to alter an existing consent which has already been implemented. The proposed changes will allow the development to meet housing need in the area while continuing to create a successful and characterful place. The changes to the drainage are acceptable and there are no other technical issues. The proposal is a departure from policy in relation to the lack of EV charging but given the planning history and the progress of the development this is considered to be acceptable in this instance. The proposals otherwise accord with the development and the application is recommended for approval.

#### **REASON(S) FOR DECISION**

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

Notwithstanding the deviation from policy policies PP3 (a) (iv) in relation to the provision of EV charging subject to conditions as recommended, the siting, design and servicing of the development are considered acceptable and otherwise accord with the development plan with no unacceptable or significant adverse effect upon the surrounding environment and there are no material considerations that indicate otherwise.

**Author/Contact  
Officer:**

Lisa Macdonald  
Senior Planning Officer

**Ext:** 01343 563479

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



## **APPENDIX**

### **POLICY**

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

##### **PP1 PLACEMAKING**

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include 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.

**PP2 SUSTAINABLE ECONOMIC GROWTH**

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built

environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

### **PP3 INFRASTRUCTURE & SERVICES**

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

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

recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

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

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

**c) Harbours**

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

**d) Developer Obligations**

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

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

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

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

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

## **DP1 DEVELOPMENT PRINCIPLES**

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

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

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

### **(i) Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 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.

## **DP2 HOUSING**

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

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

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

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

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

### **c) Housing density**

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

**d) Affordable Housing**

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

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

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

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

**e) Housing Mix and Tenure Integration**

Proposals must demonstrate tenure integration and meet the following criteria;

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

**f) Accessible Housing**

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

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

**POLICY GUIDANCE NOTE- AFFORDABLE AND ACCESSIBLE HOUSING**

**Affordable Housing**

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

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

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

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

A number of variables influence affordability of housing, including mortgage deposit requirements, mortgage interest rates, lower quartile house prices, lower quartile private rents, lower quartile full time gross earnings. Changes in these variables will affect the affordability of housing in Moray. The maximum affordable rent and maximum affordable house purchase prices is published on the Council's website at [http://www.moray.gov.uk/moray\\_standard/page\\_90100.html](http://www.moray.gov.uk/moray_standard/page_90100.html) . The current Local Housing Allowance will be used as a proxy for average private sector rents.

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

The policy requires single house proposals to make a commuted sum payment as a developer obligation towards affordable housing, with the cost figure published annually on the Council website at [http://www.moray.gov.uk/moray\\_standard/page\\_94665.html](http://www.moray.gov.uk/moray_standard/page_94665.html) and determined by the District Valuer's assessment of the value of serviced land for affordable housing in Moray. This allows developers to be clear at the outset of a project about the potential cost of commuted payments and should be reflected in land values.

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

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

- Social rented accommodation- housing provided by an affordable rent managed by a Registered Social Landlord such as a housing association or another body regulated by the Scottish Housing Regulator, including Moray Council.
- Mid-market rent accommodation- housing with rents set at a level higher than purely social rent, but lower than market rent levels and affordable by households in housing need. Mid-market rent housing can be provided by the private and social housing sectors.



- Shared equity housing- sales to low income households, administered through a Scottish Government scheme e.g. Low-cost initiative for First Time Buyers (LIFT). Any proposals to provide affordable housing in a form other than those listed above, must demonstrate that the cost to the householder is "affordable" in the Moray context and that the property will remain "affordable" in perpetuity.

Affordable housing requirement figures will be rounded up.

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

### **Accessible housing**

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

Policy DP2 aims to;

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

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

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

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

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

New wheelchair accessible housing in any tenure must comply with Housing for Varying Needs Standards (HfVNs), including the standards specific to dwellings for wheelchair users. HfVNs is available at

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

External requirements

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

Internal requirements

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

Accessible housing requirement figures will be rounded down.

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

## **EP1 NATURAL HERITAGE DESIGNATIONS**

### **a) European Site designations**

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

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

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

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

### **b) National designations**

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

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

**c) Local Designations**

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

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

**d) European Protected Species**

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

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

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

**e) Other protected species**

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

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

### **EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER**

#### **i) Special Landscape Areas (SLA's)**

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

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

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

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

#### **b ii) Landscape Character**

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

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



## **EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT**

### **a) Flooding**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**c) Water Environment**

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

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

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

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

<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.

## **EP14 POLLUTION, CONTAMINATION & HAZARDS**

### **a) Pollution**

Development proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

### **b) Contamination**

Development proposals on potentially contaminated land will be approved where they comply with other relevant policies and;

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

### **c) Hazardous sites**

Development proposals must avoid and not impact upon hazardous sites or result in public safety concerns due to proximity or use in the vicinity of hazardous sites.

## **EP15 MOD SAFEGUARDING**

Development proposals must not adversely impact upon Ministry of Defence safeguarding operations. Details of consultation zones for Kinloss Barracks and RAF Lossiemouth and development types which will be subject to consultation with the Defence Infrastructure Organisation are available from Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

## **EP5 OPEN SPACE**

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

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

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



or replacement open space provision of equivalent function, quality and accessibility is made.

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

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

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

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

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

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

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

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

details existing open space outwith the site, key community facilities in the area and wider path networks.

**i) Accessibility Standard**

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

**ii) Quality Standard**

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

**Accessible and well connected**

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

**Attractive and Appealing Places**

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

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

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

**Promotes activity, health and well being**

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

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

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

**b iii) Quantity Standard**

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

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

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

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

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

## **R1 Sunbank/Kinneddar 14.5 ha 261 units**

- Development commenced. 261 units remaining. Consent includes 4 small retail units.
- Extensive boundary landscaping and path network required.
- Development must provide a Pocket Park and a Neighbourhood Park or Civic Area.
- Access onto B9135 required. Connections through built up area to Boyd Anderson Drive. Potential for future connectivity through OPP1 to enable pedestrian, cycle, and vehicular access from the A941 must be considered/safeguarded.
- Public Transport route through site required.
- Level 2 Flood Risk Assessment (FRA) required
- Drainage Impact Assessment (DIA) required.