



Planning and Regulatory Services Committee

Tuesday, 18 May 2021

NOTICE IS HEREBY GIVEN that a Meeting of the **Planning and Regulatory Services Committee** is to be held at **Remote Locations via Video-Conference**, on **Tuesday, 18 May 2021** at **09:30**.

BUSINESS

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area 1.99Ha at Backmuir, Keith, Moray, AB55 5PE for Backmuir
Trading Limited
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| 13 | Question Time *** | |
| | Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration. | |

Summary of Planning and Regulatory Services

Committee functions:

Town and Country Planning; Building Standards; Environmental Health; Trading Standards; Weights & Measures, Tree Preservation Orders, and Contaminated Land issues.

Moray Council Committee meetings are currently being held virtually due to Covid-19. If you wish to watch the webcast of the meeting please go to:

http://www.moray.gov.uk/moray_standard/page_43661.html
to watch the meeting live.

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

THE MORAY COUNCIL

Planning and Regulatory Services Committee

SEDERUNT

Councillor David Bremner (Chair)
Councillor Aaron McLean (Depute Chair)

Councillor Frank Brown (Member)
Councillor John Cowe (Member)
Councillor Gordon Cowie (Member)
Councillor John Divers (Member)
Councillor Claire Feaver (Member)
Councillor Marc Macrae (Member)
Councillor Ray McLean (Member)
Councillor Louise Nicol (Member)
Councillor Laura Powell (Member)
Councillor Derek Ross (Member)
Councillor Amy Taylor (Member)
Councillor Sonya Warren (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	01343 563015
Clerk Email:	lissa.rowan@moray.gov.uk

Minute of Meeting of the Planning and Regulatory Services Committee

23 March 2021

Various Locations via Video Conference

PRESENT

Councillors Bremner, A McLean, Brown, Cowe, Cowie, Feaver, Macrae, R McLean, Nicol, Powell, Taylor and Warren

APOLOGIES

Apologies were intimated on behalf of Councillors Edwards and Ross

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Ms E Webster, Principal Planning Officer (Strategic Planning and Development), Mrs D Anderson, Senior Engineer (Transportation), Ms L MacDonald, Senior Planning Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. MINUTE'S SILENCE

The Chair advised the Committee that there would be a minute's silence at noon to join the national reflection to remember those lost to Covid and that this would be observed should the Committee be ongoing at that time. This was unanimously agreed.

2. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Nicol, being Treasurer of the Rothies Community Council declared an interest in Item 11 20/01026/S36 during consideration of the item and took no part in the decision.

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

3. EXEMPT INFORMATION

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

**4. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE
DATED 26 JANUARY 2021**

The Minute of the meeting of the Planning and Regulatory Services Committee dated 26 January 2021 was submitted and approved.

5. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

6. PLANNING APPLICATION 20/01613/APP

Ward 3 – Buckie

Substitution of approved house types approved ref 16/00620/APP on plots no 16, 19-25 and 28-31 on site at R6 Barhill Road, South Barhill Road, Buckie, Moray for Springfield Properties PLC

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for the substitution of approved house types approved ref 16/00620/APP on plots no 16, 19-25 and 28-31 on site at R6 Barhill Road, South Barhill Road, Buckie, Moray for Springfield Properties PLC.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as it relates to house types not previously considered in a larger development previously considered and approved by the Committee.

During discussion, Councillor Feaver noted that laurel hedging was to be used in the development and was of the opinion that, in order to pursue biodiversity, native or edible hedging should be used.

In response, Mr MacPherson, Principal Planning Officer advised that if the Committee wished to specify the type of hedging the Applicant should use, then a condition could be added to ensure this.

Councillor Brown stated that, in his opinion, laurel hedging was favourable as it is evergreen whereas native or edible hedging is not.

On considering the comments from Councillor Feaver and Brown, the Chair sought the agreement of the Committee to add a condition to reflect that hedgerows should be made up of a variety of native, edible and evergreen species. This was agreed.

Following consideration, the Committee agreed to grant planning permission subject to the following conditions and reasons with the inclusion of an additional condition to reflect that hedgerows should be made up of a variety of native, edible and evergreen species

1. The development hereby approved forms part of, and is related to, the development granted planning permission under decision notice 16/00620/APP dated 28 March 2017. All the terms and conditions attached to that permission are hereby reiterated and remain in force insofar as they relate to the development hereby approved, including any details already approved to discharge conditions.

Reason: In order to ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details and that only one permission is implemented, the re-positioning of houses on plots being considered as an acceptable alternative to that already approved and not an addition thereto.

7. PLANNING APPLICATION 20/00905/APP

Ward 7 – Elgin City South

Proposed residential units (mix of affordable housing and care village) with associated access infrastructure landscaping and miscellaneous works on Sites R7, R2 And R3 Bilbohall, Elgin, Moray for Moray Council & Grampian Housing Association

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for proposed residential units (mix of affordable housing and care village) with associated access infrastructure landscaping and miscellaneous works on Sites R7, R2 And R3 Bilbohall, Elgin, Moray for Moray Council & Grampian Housing Association.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application is a major application as defined under the Scottish Government's hierarchy of developments as it involves a development of more than 50 houses and the site area exceeds 2 hectares.

During discussion, Councillor R McLean sought clarification as to whether the green corridor coming from the west would remain or whether there would be a road through it.

In response, Mr Smith, Principal Planning Officer advised that there was a large area of landscaping proposed within the development including 3 ponds which would complement the wetland area however there would be a road through the existing green corridor.

On hearing the response from Mr Smith, Principal Planning Officer, Councillor R McLean moved that the Committee refuse Planning Application 20/00905/APP as the proposal will cause fragmentation of an existing habitat and does not comply with Policy EP2 (Biodiversity). This was seconded by Councillor Feaver.

Ms Webster, Principal Planning Officer (Strategic Planning and Development) advised that Nature Scot were consulted on the Application and are happy with the proposal as it stands and have raised no objection.

Councillor Bremner welcomed the proposal and moved that the Committee agree to approve Planning Application 20/00905/APP as recommended. This was seconded by Councillor A McLean.

On a division there voted:

For the Motion (5):	Councillors R McLean, Feaver, Brown, Macrae and Powell
For the Amendment (7):	Councillors Bremner, A McLean, Cowe, Cowie, Nicol, Taylor and Warren.
Abstentions (0):	Nil

Accordingly, the Amendment became the finding of the Committee and it was agreed to grant planning permission in respect of Planning Application 20/00905/APP subject to the:

- (i) completion of an appropriate legal agreement regarding payment of developer obligations relating to secondary education, health care and transport; and
- (ii) following conditions and reasons:
 - 1. Notwithstanding the submitted phasing plan, (GA-002 Revision C), no development shall commence until a revised phasing plan has been submitted to and approved in writing by the Council as Planning Authority. This plan shall show the delivery of the final section of spine road and the associated improvements to the Bilbohall road and signalised junction as part of phase 2. The development shall thereafter proceed in accordance with the approved phasing plan unless otherwise agreed in writing with the Council as Planning Authority

Reason: To ensure the timely delivery of landscaping, paths and infrastructure, including infrastructure necessary to provide a bus route through the site, and delivery of a phased development which integrates into the landscape.

- 2. No development shall commence until scaled plans detailing the route, design, gradient surfacing, drainage, timing of delivery, and maintenance arrangements for (a) the proposed section of upgrading of Core Path EG36 and (b) the connections across the land to the east of the site at the Wards to connect onto existing Core Path EG37, (as shown on the approved Outdoor Access Plan dated February 2021 SK 200) have been submitted to and approved in writing by the Council as Planning Authority in consultation with the Access Manager. The paths shall thereafter be implemented in accordance with the approved details and the approved phasing plan unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the provision of safe and suitable access routes for pedestrians both within and to/from the development to the wider core path network and as these details were not included in full with the application.

- 3. Notwithstanding the submitted landscaping plans no development shall commence until a revised version of the Landscape Masterplan, Soft Landscape Specification, Planting Schedules and Maintenance Schedules, and the relevant landscape plans phase have been submitted to and approved in writing by the Council as Planning Authority. These plans shall incorporate all

of the currently proposed details along with the following additional details (unless otherwise agreed in writing by the Council as Planning Authority):

- Timescale for the delivery of the community orchard.
- Timescale for the delivery of planting within each character area.
- Planting along all routes to be semi-mature as defined in the Moray Local Development Plan tree technical specification.
- Hedging at plot 143 restricted to ensure clear visibility from the plot access point.
- Provision of low maintenance low boundary hedging/planting in the front gardens of Plots 241 -248 and 225 – 236 within the Lower Valley (R2) character area.
- Timescale for the delivery of biodiversity measures and details of the type and location of all proposed bat and bird boxes.
- Timescale for provision of paths.

All landscaping works shall be carried out and maintained thereafter in accordance with the approved details. Any trees or plants 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 otherwise agreed in writing by the Council, as Planning Authority.

Reason: 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 and in relation to bullet point 2 to ensure that planting provides a variety of approach along these routes and accentuates the street hierarchy in order to meet Place making design principles.

4. No development shall commence until details of the proposed equipped play areas, surfacing, equipment and its ongoing maintenance (scaled drawing 1:100 and equipment specification schedule) on the locations identified on the approved site plans within Site R2 and R3 have been submitted to and approved in writing by the Council, as Planning Authority. The equipped play areas shall make provision for all-abilities access including in relation to the surface finish, play equipment and seating/tables. The equipped play areas shall be provided in accordance with the approved details and be available for use prior to the occupation of 50% of residential units in each character area within sites R2 and R3, unless otherwise agreed in writing by the Council as Planning Authority.

Thereafter the play areas shall be maintained in accordance with the approved maintenance arrangements.

Reason: To ensure the adequate provision of equipped play areas and future maintenance.

5. No development shall commence on the R7 (The Firs) site until (a) a hibernating check for bats to be carried out during the November to April window in any year) has been carried out and (b) details of all mitigation set out in the approved Bat Survey dated October 2020 (including measures to ensure the avoidance of light shining into bat foraging habitats during both construction

and operation; and provision of bat boxes throughout this part of the site) have been drawn up. The details of these surveys/measures to be submitted to and approved in writing by the Planning Authority before any work commences on site. Thereafter work shall proceed in accordance with the approved details and no residential unit on the R7 site shall be occupied until the associated bat mitigation has been implemented in accordance with the approved details.

Reason: To ensure that European Protected Species are not adversely affected by development.

6. No development shall commence on site R7 (The Firs) until existing trees to be retained have been enclosed with protective fencing and thereafter protected during construction in accordance with the approved Tree Protection Plan) R7 Detail (drawing number 10949-LD-PLN-101 Revision B. These trees shall be retained thereafter on site throughout the lifetime of the development unless otherwise agreed in writing with the Planning Authority, with no other trees removed without the prior written approval of the Council as Planning Authority.

Reason: To ensure that the development is integrated into the surrounding landscape/townscape and that features of value to the local area are retained.

7. No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Environmental Health Manager. This plan shall include:

- Site Waste Management Plan which should cover the management of soil on site
- Construction Method Statement
- Measures to ensure that there will be no pollution or discharge of sediment which may affect the Wards wildlife site
- Measures for the reuse of turves and other environmental mitigation , including lighting proposals all as outlined in the embedded mitigation measures section of the approved Landscape and Visual Appraisal Appraisal Project No. 10949 document
- Pre -construction badger survey
- Measures to ensure that any felling or vegetation clearance works happen outside of the nesting bird season (typically March – August, inclusive)
- Measures to minimise construction related noise, dust and artificial lighting

Thereafter construction shall proceed in accordance with the approved plan unless otherwise agreed in writing with the Council as Planning Authority.

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

8. No development shall commence until details of the colours of all street materials have been submitted to and approved in writing by the Council as Planning Authority. These details to reflect the requirement to provide variety between the streets and home-zones. Thereafter all works shall be carried out

in accordance with the approved details unless otherwise agreed in writing with the Council as Planning Authority.

Reason: In order to ensure that the development has variation in street detailing through the use of different materials and surfacing and reflects the distinctiveness between and in each character area and as these details are lacking from the application.

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

Reason: To ensure that residential units are served by appropriate high speed internet connections.

10. No development shall commence on the development until details of the design, height and finishes of retaining walls have been submitted to and approved in writing by the Council as Planning Authority. All boundaries shall thereafter be completed and retained in accordance with the approved plans unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure that the development integrates into the landscape.

11. No development shall commence on the development until details of the design and finishes of all covered cycle storage facilities have been submitted to and approved in writing by the Council as Planning Authority in consultation with the Transportation Manager. The facilities shall thereafter be completed in accordance with the approved plans prior to occupation of the units to which they relate unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure that suitable provision is made for cycle storage and to ensure that the development integrates into the landscape.

12. No development shall commence on Site R3 (Bilbohall South) or on the construction of pumping station until details of the design and finishes of the proposed pumping station and associated plant (including noise levels) and timetable for delivery have been submitted to and approved in writing by the Council as Planning Authority in consultation with the Environmental Health Manager. The infrastructure shall thereafter be completed in accordance with the approved plans before being brought into use.

Reason: To ensure an acceptable form of development as these details are lacking from the application.

13. No development shall commence on the development hereby approved until a detailed Arts Strategy (shall include street naming strategy) has been submitted to and approved by the Council as Planning Authority. This shall reflect the principles set out in the Bilbohall Arts Strategy dated January 2021

accompanying this application and include details of how the art will be delivered and a timetable for delivery. The strategy shall thereafter be implemented in accordance with the approved details and timetable unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure that the development integrates into the landscape and supports delivery of a distinctive place.

14. No development shall commence on site R2 (Edgar Road) until a scheme to provide protection against the ingress of harmful ground gases and/or vapours has been submitted to, and approved in writing by, the Council as Planning Authority. The scheme shall comply with relevant authoritative technical guidance and include the following:

- full technical specification of the gas/vapour protection measures to be installed;
- details of how the gas/vapour protection measures and workmanship will be verified, including details of independent verification by an appropriately qualified person.

Thereafter, no individual property shall be occupied until written confirmation has been issued by the Council as Planning Authority that all protection measures have been installed and independently verified in accordance with the agreed details.

Reason: To ensure that that gas/vapour protection measures are installed to the appropriate standard such that the development is safe from ingress of harmful gases/vapours.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any amendments to this order) Schedule 1, Part 1, Class 1A, 1B, 1C & 3A (erection of extension, conservatory, garage, summerhouse or any other outbuilding on plots/gardens) on Site R2 (Edgar Road) shall require the express consent of the Moray Council as Planning Authority.

Reason: To ensure that that gas/vapour protection measures are installed to the appropriate standard such that the development is safe from ingress of harmful gases/vapours.

16. No development shall commence until a revised Drainage Impact and Flood Risk Assessment has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Flood Risk Management Team which shall collate in one single document all information provided including all calculations, design, maintenance, ground water abstraction details, supporting drawings, tests and calculations for all SUDS features, swales and rain gardens. This information shall also include detailed site specific sections through the SUDS pond and planting details which shall reflect the requirement to maximise biodiversity benefits.

Thereafter no residential unit shall be occupied until the surface water drainage arrangements serving it have been implemented in accordance with the approved details. The arrangements shall be maintained thereafter in accordance with the approved details throughout the lifetime of the development

Reason: To ensure that surface water drainage is provided timeously, complies with the principles of SUDS and in order to protect the water environment and to ensure the development enhances biodiversity.

17. No work shall commence on the construction of any residential unit until details of the proposed external finishes by way of samples/specifications have been submitted to and approved in writing by the Council as Planning Authority. These details to reflect the approach of the approved Placemaking Addendum dated January 2021. The units shall thereafter be constructed in accordance with the approved details.

Reason: To ensure the development is integrated into the surrounding landscape/streetscape and supports delivery of a distinctive place.

18. No development shall commence on plots 239 to 242 and plots 274 to 279 of site R2 (Edgar Road) until details of the materials design and surface density of an acoustic barrier of at least 3.7m height at the Substation (comprised of a 2.2m high acoustic barrier on a 1.5m bund) on the location shown in the Landscape Boundary Treatments plan (Drawing number 10949-LD-PLN-250 Issue C and referenced in the Landscape Masterplan Key) have been submitted to and approved in writing by the Council as Planning Authority in consultation with the Environmental Health Manager. The acoustic barrier shall have a sound reduction index (R) of at least 20 dB in the 100 Hz third-octave band, as detailed in page 24 of the approved Noise Impact Assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled "Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association."

The barrier shall thereafter be installed in accordance with the approved details prior to the occupation of any units on plots 239-242 and 277-279 and maintained thereafter throughout the lifetime of the development hereby approved unless otherwise agreed with the Council as Planning Authority.

Reason: To ensure that there is no adverse impact or loss of amenity for adjacent properties and to satisfactorily mitigate any potential noise pollution.

19. No development shall commence on the western section of the spine road or phase 3 (Woodland Edge Character Area of Site R3 and Site R7 The Firs) of the approved development (as shown on the submitted phasing plan or as defined on any subsequent approved phasing plan approved under the terms of condition 1) until details of the materials, design and surface density of a 2 metre high acoustic barrier to be provided in the northern location shown in the Landscape Boundary Treatments plan (Drawing number 10949-LD-PLN-250 Issue C and referenced in the Landscape Masterplan Key) have been submitted to and approved in writing by the Council as Planning Authority in consultation with the Environmental Health Manager. These details shall meet all the requirements set out in Section 2.3 of the approved Noise Impact Assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled

“Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association.”

The barrier shall thereafter be installed in accordance with the approved plans before the north western part of the spine road is brought into use and retained/maintained thereafter throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact or loss of amenity for existing and proposed residents in the area and to satisfactorily mitigate any potential noise pollution.

20. No development shall commence on plots 239, 240, 278 and 279 of site R2 until details of the construction of the units have been submitted to and approved in writing by the Council as Planning Authority, in consultation with the Environmental Health Manager. These details to reflect the requirement that light weight timber frame constructions shall not be provided as identified in the Noise Impact Assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled “Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association. The units shall thereafter be built in accordance with the approved details before they are occupied.

Reason: To ensure that there is no adverse impact or loss of amenity for these properties and to satisfactorily mitigate any potential noise pollution.

21. Unless otherwise agreed with the Council as Planning Authority, in consultation with the Environmental Health Manager, the housing development at plots 238 to 243, 269 to 284, and 128 to 132 shall be designed to ensure that parallel walls of living apartments separated by a distance of 1.7m (to the nearest 0.1m) or whole number multiples thereof are not constructed, as identified in the noise impact assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled “Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association.

The above mitigation measures shall be implemented and maintained throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact or loss of amenity for adjacent properties and to satisfactorily mitigate any potential noise pollution.

22. Unless otherwise agreed with the Council as Planning Authority, in consultation with the Environmental Health Manager, all residential units on Plots 101,149-152,155,187-208, 213-240 ,248-252, 254-260, 265-266, 270-271, 305-308 shall have thermal double-glazing units provided in living apartment windows (living room/bedroom), which should achieve an acoustic performance of at least $R_w + C_{tr} = 25$ dB, as identified in “Table 14 Glazing/Ventilation Configuration” of the Noise Impact Assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled “Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association.

The above mitigation measures shall be implemented and maintained throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact or loss of amenity for these properties and to satisfactorily mitigate any potential noise pollution.

23. Unless otherwise agreed with the Council as Planning Authority, in consultation with the Environmental Health Manager, all residential units on Plots 101,149-152,155,187-208, 213-240, 248-252, 254-260, 265-266, 270-271, 305-308 shall have acoustic trickle ventilation provided in living apartments windows (living room/bedroom), which should achieve an acoustic performance of at least $D_{n,e,w}$ 26 dB C_{tr} -1 dB, as identified in "Table 14 Glazing/Ventilation Configuration" of the Noise Impact Assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled "Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association." (Corrected and updated in e-mail dated 12/02/2021 from AECOM Limited to the Environmental Health Manager).

The above mitigation measures shall be implemented and maintained throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact or loss of amenity for these properties and to satisfactorily mitigate any potential noise pollution.

24. Unless otherwise agreed with the Council as Planning Authority, in consultation with the Environmental Health Manager, there shall be no windows to living apartments (living room/bedroom) on the west side of housing development associated with Plots 241 and 279 of Site R2, as detailed in Section 5.4 of the Noise Impact Assessment supporting document by AECOM Limited, 1 New York Street, Manchester, dated January 2021, Project number: 60620775 and titled "Bilbohall Masterplan. Planning Noise Report. Moray Council and Grampian Housing Association", and further identified in the Landscape Boundary Treatments plan supporting document (Drawing number 10949-LD-PLN-250. Issue A).

Reason: To ensure that there is no adverse impact or loss of amenity for these properties and to satisfactorily mitigate any potential noise pollution

25. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 – 1900 hours, Monday to Friday and 0800 – 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: To ensure that there is no adverse impact upon neighbouring properties, or loss of amenity.

26. The existing stone walls at the R7 (The Firs) site shall be retained or reinstated

in accordance with the approved site plan (Drawing number GA-301 Revision E) throughout the lifetime of the development hereby approved unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the development is integrated into the surrounding landscape/streetscape and retains features which contribute to the character of the area.

27. The development hereby approved shall be constructed in accordance with the approved site sections and levels plans unless otherwise agreed in writing with the Council as Planning Authority

Reason: To ensure that the development is integrated into the surrounding landscape/townscape.

28. Traffic calming proposals shall be implemented in accordance with the approved traffic calming diagram (and associated drawings J5143 -030 revision G and J5143-031 revision J) and the approved phasing plan unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the delivery of traffic calming measures in the interests of road safety and the amenity of residents in terms of mitigation of noise as considered in the noise impact assessment of the development.

29. All residential units within the development shall be provided and retained as affordable housing for the lifetime of the development unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Housing Strategy & Development Manager.

Reason: To ensure an acceptable form of development in terms of the required provision and delivery of affordable housing.

30. No unit shall be occupied on site R7 (the Firs) until a footway link has been provided from the eastern part of the site through to Fairfield Avenue in the position shown on the approved site plan (Drawing number GA-301- E) to the west side of the road linking to Fairfield Avenue adjacent to 5 Fairfield Avenue. The link to be retained thereafter throughout the lifetime of the development hereby approved.

Reason: To ensure the provision of safe and suitable access routes for pedestrians.

31. No unit shall be occupied until its associated parking, cycle and bin storage provision has been implemented in accordance with the approved plans unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure that the development is adequately serviced.

32. No development shall commence on Phase 1 (R2 – Edgar Road site) of the development until the following has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority:

- i) drawing(s) (Scale 1:500 minimum) showing the positions of bus lay-bys/stops on the Spine Road including bus stop infrastructure (shelters and

- flags);
- ii) drawing(s) (Scale 1:250 minimum) showing the design of the Bus Gates to be installed at two locations on the Spine Road along with details of the specification and operation requirements of the Bus Gates;
- iii) timescales for the delivery of the Bus Gates and bus stop infrastructure proposed for development; and
- iv) prior to any work commencing in Phase 2 evidence of an agreement with local bus operators for the provision of bus services to serve the site, including the extension/enhancement of existing bus services and/or the provision of new dedicated bus services to provide a minimum level of service operating from 7.00am to 6.00pm at an hourly frequency Monday to Friday inclusive and from 8.00am to 6.00pm at an hourly service on Saturday, for a minimum duration of two years which shall commence within 90 days of the opening of the Spine Road through the site as a route for traffic (unless otherwise agreed in writing with the Council as Planning Authority).

Thereafter, the bus stops, bus infrastructure and bus services shall be provided in accordance with the approved details and agreed timescales unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the satisfactory provision of public transport infrastructure to serve the development.

33. No development shall commence until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- i) detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for delivery for the extension of Edgar Road to provide access to the site and the required amendments to the High School Access, including proposals for footways, cycle paths, pedestrian/cycle crossing facilities and boundary treatments. The design details shall be informed by a Stage 1/2 Road Safety Audit (RSA), for the proposed road extension and, any other works proposed e.g. pedestrian crossings and the Road Safety Audit shall be included as part of the required details.

Thereafter, the internal road network shall be provided in accordance with the approved details and agreed timescales unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development and to safeguard provision of vehicular access to the High School from Edgar Road, in the interest of road safety.

34. No development shall commence on Phase 2, 3 or 4 (Sites R3 and R7) of the development until the following has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority:

- i) a detailed drawings (Scale 1:500) showing the design specifications and timescale for delivery of the road and junction improvements (traffic signal control) at the Bilbohall Road Railway Bridge and including revisions to the road layout at the Mayne Road/Fleurs Road/Bilbohall Road/Wards Road junction to the north of the railway line which optimises facilities for

pedestrians and cyclists through provision of advanced cycle stop lines, controlled pedestrian crossings, additional/widened footways and a cycle path approaching the junction on the western side of Bilbohall Road. The design details shall be informed by a Stage 2 Road Safety Audit for the proposed road and junction improvements and shall be included as part of the required details; and

- ii) written evidence of all Road Traffic Regulation Orders being secured to remove rights of access for motorised vehicles and/or create one-way sections of road as required to support the road and junction improvements.

Thereafter, the road and junction improvements shall be provided in accordance with the approved details and agreed timescales unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

35. No development shall commence until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority detailed drawings (Scale 1:500) showing revisions to the alignment of the Spine Road to incorporate:
- i) enlarged traffic islands to provide crossing points for pedestrians and cyclists to the Moray Council specification;
 - ii) widened sections of the footway on the western side of the Spine Road to ensure provision of continuous cycle routes of a minimum of 3 metres between the cycle paths within the landscaped areas in Sites R2 and R3 and the pedestrian/cycle crossing points on the Spine Road;
 - iii) widening of the footway adjacent to Plots 219-224 to a minimum of 3 metres in width to provide a continuous cycle route from the access to R2 to the High School Access Road;
 - iv) amendments to the access to R2 housing on the eastern side of the road to provide a priority for the cycle path over traffic turning into/out of the side road; and
 - v) re-location of all pedestrian crossing points at the site accesses on the western side of the Spine Road to ensure provision of a direct and convenient route for pedestrians which follows desire lines.

The design shall be informed by a Stage 2 Road Safety Audit and vehicle swept path analysis and the Road Safety Audit shall be included as part of the required details.

Thereafter, the Spine Road and pedestrian and cycle facilities shall be provided in accordance with the approved details and Phasing Plan unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

36. No development shall commence on Phase 1 (Site R2) until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- i) a detailed drawing (Scale 1:500) showing revised vehicle swept path analysis for two cars passing each other in the vicinity of Plots 236 and 279 without overrunning the footway; and
- ii) a detailed drawing (Scale 1:500) showing the provision of a footway to the rear of the perpendicular parking spaces sited in the vicinity of Plots 201-204.

Thereafter, the development shall be provided in accordance with the approved details unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure provision of a road network within Site R2 which operates safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

37. No works shall commence on Phase 2 (Site R3) until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- i) a detailed drawing (Scale 1:500) showing the provision of a footway to the rear of the perpendicular parking spaces sited in the vicinity of Plots 191-202; and
- ii) a detailed drawing (Scale 1:500) showing the provision of a temporary pedestrian and cycle route between Site R3 and Bilbohall Road details along with details of the timescale for the provision of the temporary route.

Thereafter, the development shall be provided in accordance with the approved details unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure provision of a road network within Site R3 which operates safely and efficiently for the benefit of all road users, including for pedestrians and cyclists and to provide access for pedestrians and cyclists from Site R3 to the existing road network to the north of the site.

38. No works shall commence on any phase of the development until details for the construction of that phase have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding:

- a) A Construction Traffic Management Plan which shall include the following information:
 - duration of works;
 - construction programme;
 - number of vehicle movements (i.e. materials, plant, staff, components);
 - anticipated schedule for delivery of materials and plant;
 - full details of construction traffic routes from the Strategic Road Network (A941/A96) to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site. (Note Construction vehicles will not be permitted to access the site via the Railway Bridge to the north of the development, unless those vehicles are associated with the works)

required for the upgrading and junction improvement at Bilbohall Road/Mayne Road/Fleurs Road/Wards Road);

- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians, in particular safeguarding movements to the play area to the west of Bilbohall Road;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.
- Details of how the plan will be managed and monitored.

And

b) Any temporary construction access which shall include the following information:

- a drawing (Scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
- specification of the materials used for the construction access(es);
- all traffic management measures required to ensure safe operation of the construction access(es);
- details, including materials, for the reinstatement of any temporary construction access(es); and
- details regarding the timescale for the opening up and closure of any temporary access(es) together with the time period over which the temporary access(es) will be used.

Thereafter, the construction of the development shall be implemented in accordance with the approved details, unless otherwise agreed with the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site, road safety and the amenity of the area/adjacent properties

39. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.9m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway, measured from the level of the public carriageway, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

40. No fences, planting/hedges, walls or any other obstruction whatsoever over 0.3m measured from the level of the public carriageway shall be permitted within any 'forward visibility' areas or any visibility splays crossing plot boundaries within all areas of the residential development, unless otherwise

agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To enable drivers of vehicles to have an acceptable clear forward visibility, in the interests of road safety for the proposed development and other road users.

41. Parking provision for Phases 1 and 4 (Sites R2 and R7) shall be provided in accordance with the Parking Provision drawings 20197-GA-202 Rev A and 20197-GA-302 Rev A respectively and thereafter no house or flat shall be occupied until parking has been provided and made available for use by that house or flat. The parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved.

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

42. No development shall commence on Phase 2 (Site R3) until the following details for Car Club provision has been submitted for approval by the Planning Authority in consultation with the Roads Authority:
- Written evidence of an agreement with a registered Car Club provider to operate a minimum of two vehicles within the development;
 - Details of promotion of Car Club membership to tenants, including free/discounted membership to incentivise use of the Car Club; and
 - A program for the evaluation of the first five years of the operation of the Car Club to evaluate its effectiveness in reducing car ownership, including an annual parking survey to be undertaken by the Registered Social Landlord to an agreed scope.

Thereafter the Car Club shall be operated and evaluated in accordance with the approved details.

Reason: In the interests of an acceptable form of development and the provision of a Car Club service to support the use of lower parking standards within Site R3, through the provision of details currently lacking from the submission.

43. Parking provision for Phase 2 (Site R3) shall be provided in accordance with the Parking Provision drawing 20197-GA-102 Rev A and thereafter no house or flat shall be occupied until parking has been provided and made available for use by that house or flat. The parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved, unless;
- i) the annual surveys as set out in the approved Site R3 Parking Provision document provide evidence of parking demand exceeding parking supply; or
 - ii) the Car Club provider withdraws the service from within the site and no replacement provider is secured within 90 days unless otherwise agreed in writing by the Council, as Planning Authority.

Thereafter additional parking spaces shall be provided at locations where evidence of parking demand exceeding parking supply is identified within the abovementioned annual surveys, or in the case of the withdrawal of the Car club service, all additional parking spaces are provided in accordance with Drawing 20197-GA-102 Rev A within a period of six months from the date of the identification of the need for the additional parking spaces, unless otherwise agreed in writing with the Planning Authority in consultation with the Roads Authority. Thereafter the revised parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved unless otherwise agreed in writing with the Planning Authority in consultation with the Roads Authority.

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

44. Prior to commencement of works for each phase of development the following details for Electric Vehicle charging provision shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:

- Statement/specifications to confirm that the EV charging supply and cabling provisions for each plot will be suitable for the connection of a 7Kw 'Fast' type charging unit as a minimum.
- Design/specifications for the proposed mounting/installations to be provided for any future EV charging points which would not be mounted on a wall.

Thereafter the development shall be completed in accordance with the approved details before occupation of the unit to which the charging provision relates.

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

45. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced in a hard material, for example bituminous macadam, or lock block pavements.

Reason: To ensure acceptable infrastructure is provided at the property accesses.

46. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any amendments to this order) all service strips along plot frontages shall be kept free from any obstruction and no amendments to the approved planting shall be permitted unless otherwise agreed in writing with the Council as planning authority.

Reason: To ensure an acceptable form of development and effective roads drainage infrastructure is provided and safeguarded.

8. 21/00186/PAN

South West Extension of Cobble and Sand Quarry Comprising Circa 15 Hectares at Lossie Forest Quarry

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 11 February 2021 on behalf of Tennants (Elgin) Limited.

During her introduction, Ms MacDonald, Senior Planning Officer advised that a revised PAN for the same development has been received and will be brought to the next meeting of this Committee for consideration. This was noted.

Having considered the proposal, Councillor Feaver noted that the proposal is close to an established pond system therefore, in terms of biodiversity and wildlife, asked that the Applicant arrange for an ecological survey to be carried out.

In response, Ms MacDonald, Senior Planning Officer advised that a full environmental statement was expected with the planning application and that she would forward Councillor Feaver's comments on to the Applicant.

Thereafter, the Committee agreed:

- (i) to note a revised PAN for the same development has been received and will be brought to the next meeting of this Committee for consideration;
- (ii) to note the terms of the report and asked that the following provisional view/relevant issue be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
 - (a) with regard to biodiversity and wildlife, confirmation that an ecological survey will be carried out as the proposal is close to an established pond system;
- (iii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

9. 20/01648/PAN

Proposed Residential Development, Landscaping and associated Infrastructure At R8 and Long 1, Buckie

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 3 December 2020 on behalf of Springfield Properties PLC.

Having considered the proposal, Councillor Warren stated that the site in question was an isolated site with significant connectivity issues and that the development would add traffic pressure at the existing mini roundabout at St Andrews Square therefore asked that the Applicant be notified of her concerns and further asked that the Applicant give consideration to the provision of a parking space for a car club car.

Councillor Feaver advised that Councillor Eagle had asked that the Applicant consider the following points when submitting the planning application:

- transport pressure on St Peters Road to the south of the development which is putting strain on Netherha Road where traffic has to cross the same bridge (only one to the south of the A98 on West Church Street);
- Active Travel - consideration be given to a new pedestrian bridge or a new road bridge across the Burn of Buckie as currently members of the public are required to walk to the south of the town to cross the burn;
- 20 minute neighbourhoods - The closest shop to the area is a small corner shop on St Pauls Street which is approximately a 20 minute walk (one way) from the development so there is a requirement for a new shop in this area or near the Alba Road development.
- consideration be given to the provision of a community centre/hall/church as the new development appears to consist of only houses;
- Play parks – consideration be given for a suitably located play park whilst offering more for older children eg a small multi-sports pitch and an undercover meeting space for older young people

In response, Mr MacPherson, Principal Planning Officer advised that he would forward on these concerns to the Applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
 - (a) concern that this is an isolated site with limited connectivity routes;
 - (b) traffic pressure points at the mini roundabouts at St Andrews Square;
 - (c) consideration of parking for a car club car;
 - (d) transport pressure on St Peters Road to the south of the development which is putting strain on Netherha Road where traffic has to cross the same bridge (only one to the south of the A98 on West Church Street);
 - (e) Active Travel - consideration be given to a new pedestrian bridge or a new road bridge across the Burn of Buckie as currently members of the public are required to walk to the south of the town to cross the burn;
 - (f) 20 minute neighbourhoods - The closest shop to the area is a small corner shop on St Pauls Street which is approximately a 20 minute walk (one way) from the development so there is a requirement for a new shop in this area or near the Alba Road development.
 - (g) consideration be given to the provision of a community centre/hall/church as the new development appears to consist of only houses;
 - (h) Play parks – consideration be given for a suitably located play park whilst offering more for older children eg a small multi-sports pitch and an undercover meeting space for older young people;
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

10. 20/01755/PAN

Aerospace Advanced Technology and Innovation Centre (Use Classes 4: Business, Class 5: General Industrial, Class 6: Storage And Distribution and Class 10: Non Residential Institution) on Land Adjacent to RAF Lossiemouth

Under reference to paragraph 5 of the Minute of the special meeting of the Planning and Regulatory Services Committee dated 8 December 2020, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 16 November 2020 on behalf of Highlands and Islands Enterprise with a proposal to expand the red line boundary area to include additional land to the south of Drainie Road and extend the proposed uses to include Class 10: Non-Residential Institutions.

Following consideration, the Committee agreed:

- (i) to note the terms of the report in respect of a Proposal of Application Notice (PAN) for an Aerospace Advanced Technology and Innovation Centre on land adjacent to RAF Lossiemouth; and
- (ii) that there were no provisional views/relevant issues on the PAN from any Member of the Council.

11. 20/01770/PAN

Proposed Residential Development, Landscaping and Associated Development on Land at Glassgreen, Elgin

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 23 December 2020 on behalf of Springfield Properties PLC.

Having considered the proposal, Councillor R McLean raised concern that a further access will be required to the A941.

In response, Ms MacDonald, Senior Planning Officer advised that she would pass on Councillor R McLean's comment to the Applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
 - a) concern that a further access will be required to A941;
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

12. 20/01026/S36

Proposed Wind Farm Extension (9 Turbines Up To 149.9m High) at Berry Burn Wind Farm, Dunphail, Forres, Moray

During consideration of this item, the Committee observed a minute's silence and joined the national reflection to remember those lost to Covid.

Councillor Nicol, being Treasurer of the Rothes Community Council declared an interest during consideration of this item and took no part in the decision.

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider the consultation received from the Energy Consents Unit (ECU) of the Scottish Government in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) for a new windfarm. This Section of the Electricity Act relates to consenting onshore electricity generation.

Having considered the proposal, Councillor Brown stated that he was surprised that Officers were recommending that the Committee raise no objection to the proposed wind farm extension as, in his opinion, the proposal did not comply with policies DP1 and DP9 for the following reasons:

- Significant adverse effect on views detailed on page 97 of the report which fails to comply with policy DP1 (Development Principles)
- The proposal will overwhelm the landscape as detailed on page 99 of the report which fails to comply with policy DP9 (Renewable Energy).

Councillor Brown therefore moved that the Committee object to the Section 36 Application as it breaches the above policies. This was seconded by Councillor R McLean.

The Legal Adviser advised that the Committee should be mindful of agreeing a position which is contrary to the recommendation of the Appointed Officer as this would trigger a Public Inquiry where Councillors Brown and R McLean would have to defend the Council's reasons for objecting to the proposal.

The Head of Economic Growth and Development further advised that Councillor Brown would have to mention in his motion the specific areas where he considered there was a significant cumulative impact as this will be required at the Public Inquiry. He further highlighted the significant cost to the Council if required to take part in a Public Inquiry.

Councillor Brown stated that the proposed wind turbines are 495ft which could be viewed from the Moray Firth. He stated that the proposal would be a significant cumulative impact to the landscape on views from the B9020 near Tor Castle and on views seen whilst travelling on the minor road between Dallas and Upper Knockando due to the existing wind farm. With regard to views from Carron and Upper Knockando, he noted that up to 9 turbines will be visible and probably above hub height given the distance of intervening forestry in views from Cottage Road near Upper Knockando and on views from the B9010 near Tor Castle the views would be a prominent feature on the skyline seen directly above the small settlement of Dallas. Councillor Brown was of the view that the proposal, in combination with the operational Berry Burn, Rothes I and II and Paul's Hill I and II wind farms would be a significant cumulative impact to the landscape of the area therefore moved that the Committee object to the Section 36 application 20/01023/S36 as the proposal breaches policies DP1 (Development Principles) and DP9 (Renewable Energy) of the Moray Local Development Plan (MLDP) 2020. This was seconded by Councillor

R McLean who stated that the effect of the proposal on the landscape would be evident across Moray.

Councillor A McLean agreed with the view of the Appointed Officer and moved that the Committee agree recommendations i) and ii) as printed within the report. This was seconded by Councillor Bremner.

On a division there voted:

For the Motion (5):	Councillors Brown, R McLean, Feaver, Macrae and Powell
For the Amendment (6):	Councillors A McLean, Bremner, Cowe, Cowie, Taylor and Warren.
Abstentions (0):	Nil

Accordingly, the amendment became the finding of the Committee and it was agreed:

- i) to note the contents of the report, as set out in Appendix 1, including the conclusions about the planning and wider merits of the development (see Section 4 below) where taking into account the Moray Local Development Plan 2020 and all material considerations including the presence of an existing windfarm at Berryburn, it is recommended that subject to the conditions/informatives contained with Appendix 1, Moray Council does not object to the Section 36 application;
- ii) if the proposal is to be approved by the Energy Consents Unit, to seek further involvement in the formulation of any final list of conditions (such as those related to noise) and delegate authority to officers in this event.

13. PLANNING POLICY GUIDANCE – MORAY LOCAL DEVELOPMENT PLAN 2020

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve planning policy guidance on parking requirements for Primary Policy 1 (PP1) Placemaking, enabling development for EP10 Listed Buildings, a definition on technically unfeasible for policy EP7 Forestry, Woodlands and Trees, and a Placemaking Statement template.

During her introduction, the Principal Planning Officer (Strategic Planning and Development) advised the Committee of a typo on page one of the Planning Policy Guidance which should read side, not site. This was noted.

Following consideration, the Committee agreed:

- (i) to approve the planning policy guidance for the Moray Local Development Plan (MLDP) 2020 as set out in Appendix 1 of the report subject to the correction of a typo on page 1 which should read side, not site;
- (ii) that the planning policy guidance will be used as a material consideration in the determination of planning applications; and
- (iii) to note that this planning policy guidance will be combined with the guidance approved by this Committee in September and November 2020 into one document.

14. SUSPENSION OF STANDING ORDERS

Councillor Nicol re-joined the meeting at this juncture.

The Chair sought the agreement of the Committee to suspend Standing Order 75 to allow the meeting to continue beyond 12:45 pm. This was unanimously agreed.

15. DEVELOPMENT PLAN SCHEME 2021 – MORAY LOCAL DEVELOPMENT PLAN 2025

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider the current timetable for the preparation of the Local Development Plan (LDP) 2025 and to agree that the Development Plan Scheme (DPS) is submitted to the Scottish Government.

Following consideration, the Committee agreed:

- (i) the Development Plan Scheme for 2021, as set out In Appendix 1 of the report and that the Scheme is submitted to the Scottish Government;
- (ii) to note the new process for preparing local development plans and the need for evidence base to be completed to inform the Evidence Report to be drafted by January 2023; and
- (iii) that a members workshop is held in late 2021 to consider the implications arising from draft National Planning Framework 4 for the Moray Local Development Plan 2025.

16. INDICATIVE REGIONAL SPATIAL STRATEGY FOR MORAY

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to agree the revised indicative Regional Spatial Strategy (iRSS) for Moray to be submitted to the Scottish Government by the end of April 2021.

During his introduction, the Strategic Planning and Development Manager advised that there should be reference to the proposed pollination corridor along the A96 dualling route and that this would be added to the indicative Regional Spatial Strategy prior to submission to the Scottish Government. This was agreed.

During discussion, it was noted that improvements were required to Buckie Harbour to support the Offshore Renewable industry and it was queried whether consideration could be given to improving road connectivity and public transportation to the harbour as well as the installation of a strategic charging interlink.

In response, the Strategic Planning and Development Manager advised that he would have further consultation with Buckie Ward Members and the Transportation Service in this regard.

Thereafter, the Committee agreed:

- (i) to note the feedback to planning authorities on indicative Regional Spatial Strategies and the invitation to review and submit revised Strategies by the end of April 2021; and
- (ii) the revised indicative Regional Spatial Strategy in Appendix 1 subject to:
 - inclusion of reference to the proposed pollination corridor along the A96 dualling route; and
 - further consultation with Buckie Ward Members and the Transportation Service in relation to improving road connectivity and public transportation to the Harbour as well as the installation of a strategic charging interlink.

17. ELGIN SOUTH MASTERPLAN UPDATE 2021

Under reference to paragraph 6 of the Minute of the meeting of the Planning and A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to agree the draft Elgin South Masterplan Update for public consultation.

Following consideration, the Committee agreed:

- (i) the draft Elgin South Masterplan Update for public consultation;
- (ii) to note the remaining Traffic Modelling work and primary school ground conditions work which will inform the final version of the Masterplan; and
- (iii) that the consultation responses, the outcomes of traffic modelling and primary school ground conditions work are reported back to a future meeting of this Committee.

18. QUESTION TIME

There were no questions raised.

19. UNAUTHORISED ERECTION OF FENCE AT RESIDENTIAL PROPERTY IN ELGIN [PARA 12]

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the unauthorised erection of a fence on top of an existing 1.0m high wall at a residential property in Elgin.

Councillor R McLean noted that a fence requires planning permission however a hedge does not and, as the fence was only 80 cm, moved that no planning enforcement action be taken as it is not in the public's interest to do so. This was seconded by Councillor Brown.

Councillor A McLean noted that the reason for the recommended enforcement action was due to road safety which, in his opinion was in the public's interest therefore moved as an amendment that the Committee agree the recommendations as printed within the report. This was seconded by Councillor Cowie.

On a division there voted:

For the Motion (4):	Councillors R McLean, Brown, Macrae and Powell
For the Amendment (8):	Councillors A McLean, Cowie, Bremner, Cowe, Feaver, Nicol, Taylor and Warren.
Abstentions (0):	Nil

Accordingly, the Amendment became the finding of the Committee and it was agreed that:

- (i) Officers would issue a Planning Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997; the Enforcement Notice will require the owner of the fence to remove all of the timber fence extension to the existing wall along the entire length of the north boundary and the west boundary for at least 2.4 m back from the back of the footway and reduce the remaining fence to no more than 0.2m in height within 6 weeks from the date that the Enforcement Notice taking effect; and
- (ii) should the Notice not be complied with then authority is given to take direct action to remove the fence.



**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE
MEETING OF 18 MAY 2021**

REPORT ON APPLICATION

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

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

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

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

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

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

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

Censure of a Councillor or an Officer

Suspension of a Councillor for up to one year

Disqualification of a Councillor for up to five years

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

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

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

WARD 02_17

20/01251/MIN
25th September
2020

**Proposed hard rock quarry and mineral processing area
 extraction area 1.99Ha at Backmuir Keith Moray AB55
 5PE
 for Backmuir Trading Limited**

Comments:

- Refer to Committee in accordance with the approved delegation scheme - where the site exceeds 2 hectares.
- Advertised under Schedule 3 of the Development Management Regulations 2013, as a potential departure from Moray Local Development Plan 2020 and for neighbour notification purposes.
- No representations received.

Procedure:

- None.

Recommendation

Grant Planning Permission - subject to the following:-

Conditions/Reasons

1. Unless otherwise agreed in writing with the Council, as Planning Authority, the approval hereby granted is for a limited period only expiring 30 years from the date of this consent. This permission consists of a 29 year period for extraction with the final year to be solely for the purposes of site restoration and planting. If the quarry is exhausted sooner than this period, then the full restoration must be carried out within 12 months from when mineral extraction ceases.

Reason: In order that the Council, as Planning Authority may retain control over the use of the site and to ensure that further consideration can be given to the operation, effects and impact of the use approved herewith on the amenity and character of the area.

2. The quarries operations must be carried out in accordance with the updated Site Specific Management Plan, submitted in December 2020, and in particular the mitigation measures for environmental, amenity traffic, health and safety impacts arising from the quarrying operation.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

3. Prior to the commencement of works a detailed restoration and aftercare plan shall be submitted to and approved in writing by the Council, as Planning Authority (in consultation with SEPA) and all work shall be carried out in accordance with the said scheme.

The restoration and aftercare plan, must be based upon the approved Remediation Strategy and include:-

- a) detailed landscaping proposal identifying the specific number, species and location of tree and shrub planting so as to maximise biodiversity and replace felled trees;
- b) details of the specific wetland planting to enhance the biodiversity of the approved pond;
- c) further mitigation and habitat enhancements recommended in the Habitat Survey namely a variety of bat/bird boxes;
- d) details of any proposals for phased working and progressive restoration where possible;
- e) measures to replace within 5 years of planting any trees that are damaged, become diseased or die.

Reason: To retain control over this temporary form of development and ensure that the site is appropriately restored in the interests of the protection of the environment.

4. The development shall not become operational until vehicle wheel cleansing facilities have been installed and brought into operation on the site, the design and siting of which shall be subject to the prior written approval of the Council, as Planning Authority, after consultation with Transport Scotland as the Trunk Road Authority. Thereafter, the vehicle wheel cleansing facilities shall be in operation for the lifetime of the quarry.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

5. The 'control measures' identified in section 4 of the submitted Local Residential Amenity Impact Management Method Statement to mitigate the effect of quarrying on local residents, must be adhered to throughout the lifetime of the quarry.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

6. The 'control measures' identified in section 5 of the submitted Noise Management Method Statement to mitigate the effect of quarrying on local residents, must be adhered to throughout the lifetime of the quarry.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

7. The measures identified in the submitted Tree Protection Plan must be adhered to as the quarry is being established.

Reason: In order to ensure protection of neighbouring trees that add the biodiversity and visual screening of the quarry.

8. All quarry operations shall be carried out and permitted between 0800 - 1800, Monday to Friday, and 0800 - 1300, Saturdays and at no other times without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager, notwithstanding the separate time periods in condition 9 as it specifically relates to blasting times. There shall be no quarry operations on Bank Holidays or National Holidays.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. During the normal daytime working hours defined in the above condition, the free-field Equivalent Continuous Noise Level (LAeq, 1h) for the mineral extraction, processing and dispatch of products, (excluding bund formation, soil and overburden handling activity, and drilling operations), shall not exceed the greater of 45dB(A) or 10 dB above the existing background sound level for operations, as measured at any existing noise sensitive property. The existing average background sound levels (L A 90) are confirmed in Tables 1.1 to 1.3 of the Noise Impact Assessment supporting document by Vibrock Limited, Shanakeil, Ilkeston Road, Heanor, Derbyshire, dated 9 February 2021, Report Ref. R21.10820/3/AF and titled "Assessment of Environmental Impact of Noise at Backmuir Quarry, Moray."

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

10. During the normal daytime working hours defined in the condition above, the free-field Equivalent Continuous Noise Level (LAeq, 1h) for the mineral extraction, processing and dispatch of products, in combination with drilling operations (and excluding bund formation, soil and overburden handling activity), shall not exceed 55dB(A), as measured at any existing noise sensitive property, and be limited to a period not exceeding 15 days in any calendar year.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

11. The proposed noise attenuation bunds shall be installed at the locations and heights as described in the supporting document drawing by Fairhurst, dated 10 February 2021, Drawing No. 135521/8106 and titled "Backmuir Quarry, Keith. Proposed Noise Attenuation Bund." Noise from soil and overburden handling and other works in connection with landscaping the noise attenuation bunds, shall not exceed the free-field Equivalent Continuous Noise level (LAeq,1h) of 70 dB(A) at any existing noise sensitive property and be limited to a period not exceeding 8 weeks in a year at any one property. This proposed noise attenuation bunds shall be maintained throughout the lifetime of quarrying operations at the development.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

12. At the reasonable request of the Council, as Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note 'PAN50, Annex A: The Control of Noise at Surface Mineral Workings'. The results of such monitoring shall thereafter be forwarded to the Council, as Planning Authority. In the event that the results of the subsequent monitoring confirms noise levels exceeding that in the above noise limit conditions, further timeous mitigation measures will be required to be identified in a scheme agreed in writing by the Council, as Planning Authority, in consultation with the Environmental Health Manager, and thereafter implemented.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area. Also to allow further controls to protect neighbouring amenity if required.

13. Prior to the commencement of any blasting operations a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the Council, as Planning Authority for written approval. All blasting operations shall take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the Council, as Planning Authority.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

14. Ground vibration as a result of blasting operations at the development shall not exceed a peak particle velocity of 6 mms⁻¹ at 95% of all blasts over a 12 month period, and no individual blast shall exceed a peak particle velocity of 10mms⁻¹, as measured at vibration sensitive third party dwellings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive third party dwelling.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

15. No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) Monday to Friday and (1000 and 1200 hours) on Saturday.

There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

16. The above condition shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Council, as Planning Authority shall be notified in writing immediately of the nature and circumstances of any such event.

Reason: In order to ensure that, if necessary, blasting may take place in the interests of safe working.

17. Dust emissions associated with the development shall be suitably managed and mitigated by adhering to the submitted scheme in the supporting document by Fairhurst dated 14 September 2020 and titled "Backmuir Quarry Dust Management Method Statement, Project Reference 137251".

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

18. Notwithstanding the submitted details, no works shall commence until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
- a) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of a passing place on the public road, minimum length of 25 metres with 15 metre long tapers at each end and a minimum width of 6.0 metres with a minimum verge width to the rear of the passing place of 1.0 metres.
 - b) Detailed drawings (Scale 1:500 minimum) showing the provision of a clear line of sight between the western end of the passing place and a point on the centreline of the development access 25 metres back from the edge of the public carriageway. The area of land between the public road, development access and sightline shall be kept clear of any obstruction above 1.0 metres in height measured from the level of the public carriageway for the lifetime of the development.
 - c) Detailed drawings (Scale 1:500 minimum) showing the design specifications and timescale for the upgrading of the development access onto the public road for a minimum distance of 15 metres measured from the edge of the public carriageway and covering the widened area identified by the vehicle swept path analysis (Fairhurst drawing no 137521/1002 Rev A) and the provision of Hot Rolled Asphalt overlay on the entire width of the A43bH Backmuir Road for a minimum distance of 25 metres either side of the centreline of the development access.

Thereafter the passing place, access improvements, over-lay and sightline between the passing place and development access shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure provision of a safe and suitable access for vehicles, including the provision of a safe passing place and inter-visibility between the passing place and vehicles using the development access in the interests of road safety.

Reason(s) for Decision

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

The proposal accords with the provisions of the Moray Local Development Plan 2020 (subject to the conditions recommended) and there are no material considerations that indicate otherwise.

List of Informatives:

The ENVIRONMENTAL HEALTH MANAGER has commented that:-

Should the drinking water to be imported on to this development come from a private water supply, it will fall within the scope of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. For further information, contact the Council's Environmental Health section (tel 0300 1234561, email environmentalhealth@moray.gov.uk).

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

Prior contact should be made with the Health and Safety Executive (quarries) to ensure that the proposed extraction is conducted in accordance with the legislation the enforce.

The TRANSPORTATION MANAGER has commented that:-

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

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

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing roadspermits@moray.gov.uk

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

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

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

The applicants shall free and relieve the Roads Authority from any claims arising out of their operations on the road or extension to the road.

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 SCOTTISH ENVIRONMENTAL PROTECTION AGENCY has commented;-

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). Any associated dewatering may also require CAR authorisation depending on the dewatering rate. Details should be provided of how any dewatering will be managed, the amount of groundwater proposed to be abstracted and the anticipated timescales in the site specific management plan

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. It would be helpful if the applicant can contact the local compliance team to confirm the proposals for processing of the quarried minerals on site. Consider if other environmental licences may be required for any installations or processes.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team, Grampian and Speyside, at: GS@sepa.org.uk. If you have any queries relating to this letter, please contact e-mail at planning.north@sepa.org.uk.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
137521/8100		Location plan
137521/8101		Site plan
137521/8102		Proposed quarry layout
137521/8103		Cross section through proposed quarry

BQK-2012-AA-2	Arboricultural Assessment - Trees 1-30
BQK-2012-AA-1	Arboricultural assessment
BQK-2012-AA-3	Arboricultural Assessment - Trees 31-36
BQK-2012-TP-1	Tree protection and management plan
BQK-2012-TP-2	Tree Protection - Trees 1-30
BQK-2012-TP-3	Tree Protection - Trees 31-36
137521/1001	Access road layout and details
137521/1002 A	Vehicle swept path analysis
	Revised restoration strategy
137521/8106	Noise plan
	Local Residential Amenity Impact Management Method Statement
	Dust Management Method Statement
	Noise Management Method Statement
	Assessment of Environmental Impact of Noise at Backmuir Quarry Moray



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

20/01251/MIN

Site Address:

Backmuir

Keith

Applicant Name:

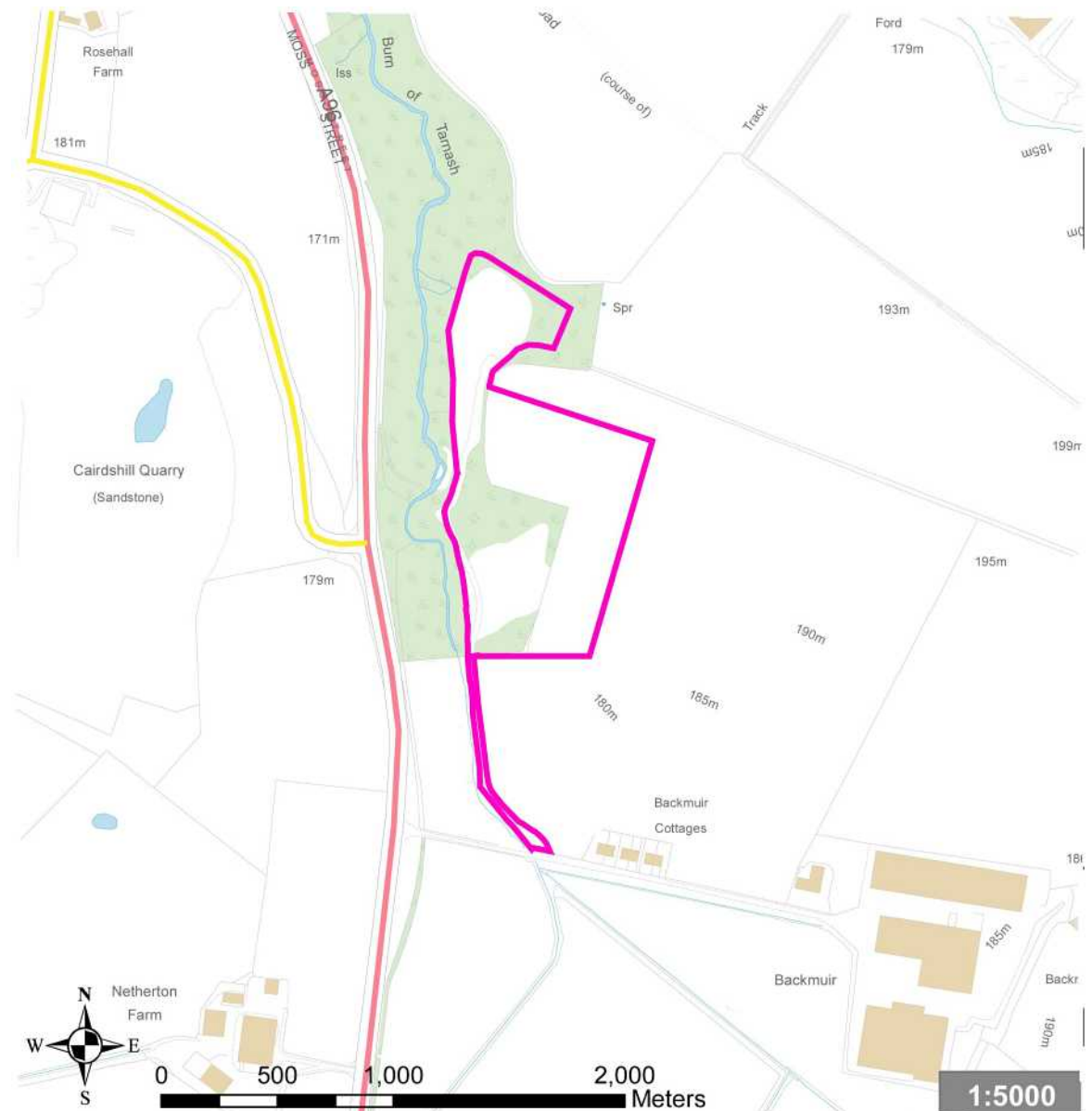
Backmuir Trading Limited

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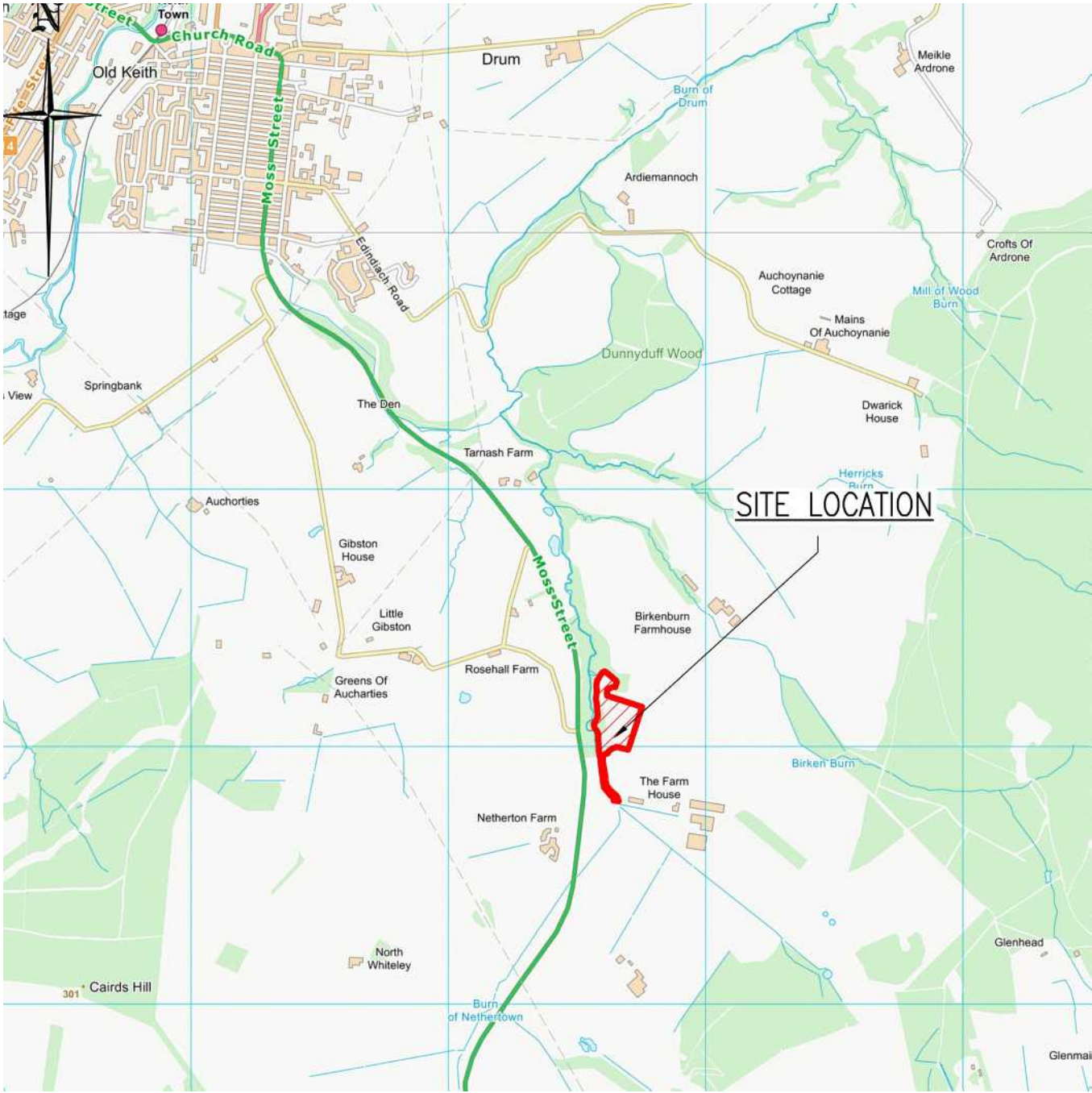
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Location Plan



Site Location



Proposed quarry layout



Photo location plan



View 1



View 2



View 3



13/11/2020

View 4



View 5



PLANNING APPLICATION: 20/01251/MIN

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

THE PROPOSAL

- Expand former agricultural quarry by approximately 1.9 hectares, and utilises existing large hardstanding area for storing/processing material. The material to be extracted would be hard rock aggregate.
- Quarry to extract approximately 25,000-30,000 tonnes per annum, with an expected yield of approximately 280,000m³ over its lifetime. This equates to approximately a 25/30 year duration, although it is noted that the quarry is being progressed with a specific project in mind, in the form of Moray West offshore windfarm cable route between Blackhillock and Portsoy, which will pass this location and will require substantive quantities of material. The cable route site passes the proposed quarry meaning that material may well be hauled on private tracks from the quarry directly onto site, rather than going via the public road network.
- Provision of two welfare/office cabins within the quarry floor, and informal parking area.
- The proposals also include an area for processing and stockpiling stone on the existing large hardstandings and former quarry floor (picture 3 in the information pack).
- A passing place is to be provided between the access to the site, and the trunk road entrance.
- A restoration and aftercare scheme outlining the remediation of the landscape after extraction has been concluded.
- The quarry will be excavated in two phases, with a second phase extracting to a lower and finished quarry level.

THE SITE

- Long established agricultural quarry and substantive works area/yard previously/currently used for agricultural purposes.
- The site is bound by higher agricultural land to the east and south east, and by a wooded small valley to the west and north through which the Burn of Tarnish flows northward. The wooded burn separates the site from the A96(T) to the west.
- The site is partially located on what was previously agricultural land and field boundary woodland adjoining the former agricultural quarry. The trees visible on the submitted aerial photo plans have already been removed from site.
- Part of the site falls within an ancient woodland inventory. There are trees at the periphery of the site, where it bounds the woodland within the small Burn of Tarnish valley west of the site.
- The site area extends to 3.6 hectares, including the access track from the minor adopted Backmuir road which extends as far as Backmuir Cottages.

- Backmuir Cottages (6 semi-detached properties) are located to the south east of the site, and other farms and residences are located in the wider vicinity.
- There are no public paths within the vicinity of the site.

HISTORY

18/01046/EIA - Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds access track laydown areas and other associated works from within the vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm, Keith, Moray, AB55 5PH for Moray Offshore Windfarm (West) Limited.

This consent encompasses the proposed quarry area, with the cables to run past Backmuir. This consent was granted approval in 03.12.2018 and is currently being progressed.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.
- Advertised as a development of a Class specified in Schedule 3 of the Development Management Regulations 2013.
- Advertised as a departure from Moray Local Development Plan 2020.

CONSULTATIONS

Strategic Planning & Development – The proposal is in a good, accessible location which is well screened and will have no adverse visual impact on the landscape. The development would contribute towards long-term planning for the provision of construction aggregates in Moray.

The submitted information also provides the necessary information to address the requirements of other relevant policies such as Policy PP3 Infrastructure and Services, DP1 Development Principles and EP7 Forestry, Woodlands and Trees.

The applicant was requested to demonstrate more fully how landscaping/design of the restoration and aftercare might enhance biodiversity and habitat enhancement features into the design of the development, in order to give comfort on compliance with policies EP2 and DP10 (c). The revised Restoration Strategy gave some further indication of the measures to be undertaken, but did not pull together the recommendations from other assessments carried out such that conditions have had to be recommended to more fully confirm the above requirements. As the proposal relates to a small quarry, with a relatively straight forward restoration scheme, a suspensive condition is permissible in this instance, but typically more evidence would be sought up front to ensure biodiversity and

habitat improvements were incorporated. (*See case officer note in Observations Section where such matters are further addressed*).

Strategic Planning & Development (Developer Obligations) – None sought.

SEPA – No objections subject to a condition requiring Site Specific Restoration Plan being attached to any grant of planning permission.

Transportation Manager – Approve subject to a condition and note the provision of an additional passing place has been met.

Transport Scotland – Conditions required regarding wheel washing provision at the access to the site.

Moray Flood Risk Management – No objections.

Environmental Health – Approve subject to a number of conditions regarding noise blasting, dust, hours of operation and it is noted that an additional noise bund is to be provided.

Environmental Health (Private Water Supplies) – No objection subject to informative.

Environmental Health (Contaminated Land) – No objections.

Health and Safety Executive (Quarries) – No response at the time of writing report.

Environmental Protection – No objections

OBJECTIONS-REPRESENTATIONS

None received with statutory period for representations.

OBSERVATIONS

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

Minerals applications are also assessed against PAN 50 Control of Environmental effects of Surface Mineral Workings (including its appendices) and the application has been submitted with adequate information for such an assessment to be made.

In support of the application, various documents were submitted. These include a Landscape and Visual Assessment, Local Residential Amenity Impact Management Method Statement, Dust Management Method Statement, Habitat Survey, Supporting Statement, Hydrological & Hydrogeological Appraisal, Archaeological Assessment, Site Specific Management Plan (including extractive waste), Noise, vibration and Blasting assessments, Tree Protection Plan and Transport Statement.

The main planning issues are considered as follows:

Background

As the new quarried area falls below 2 hectares, the proposal does not qualify as a 'major' development as defined under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. While the site is larger than 3 hectares this encompasses much of the existing old quarry area to be used for processing material and the large existing hardstanding area at Backmuir next to the quarry. The existing quarry and hardstanding would not historically have required planning permission and would have benefited from agricultural permitted development.

While there is no planning history for this location, mapping, aerial photograph and records confirm the presence of an agricultural quarry at this location for some time.

Relationship to Minerals Policy (DP10)

Policy DP10 Minerals states that amongst other criteria proposals for mineral extraction will be acceptable where they constitute an extension to existing operation/site, and/or relate to a reserve underlying a proposed development where it would be beneficial to extract prior to development. In this case the first criteria is met albeit an agricultural quarry to date, and the applicant has referred to the forthcoming, consented major cable laying infrastructure that would pass this locality. This is related to the Moray West Offshore windfarm onshore transmission works and would pass by the proposed quarry on its way to the Blackhillock substation.

There are benefits to gleaning material from close to development sites, as this reduces transportation of materials from other quarries. No pursuit or confirmation of the finance to remediate this site has been required, as the site being relatively small, with a topographically simple remediation layout means it would not be so costly an endeavour as to warrant some separate security. The conditions recommended would suffice to ensure remediation is carried out.

Noting the other matters below, the principle of the quarry accords with policy DP10.

Visual Impact (DP1 and DP10)

The applicant has submitted in aid of the planning application a Landscape and Visual Assessment which concludes that the quarry would sit within and below the hillside and would not constitute a visually prominent feature in the landscape. The quarry would not be visible from any nearby residences.

The submitted photomontages and visits to the location confirm that the quarry would be well sited and relatively discrete within the landscape. There may be periods in the winter, when deciduous foliage is absent from the woodland west of the site, that it becomes partially visible from the A96. The views would be fleeting however and largely obscured, and even in winter the substantive woodland west of the site obscures the proposed quarry (as it does at present for the small existing quarry). Elevated views from further west would be possible, but given the general presence of larger quarries in the locality would not detrimentally alter the landscape character of this area.

Upon this basis, the proposal does not conflict with the landscape protection elements of either policy DP1 Development Principles or DP10 Minerals.

Impact on woodland (EP7, DP1 and DP10)

EP7 Forestry, woodland and trees states that a tree survey, tree protection plan and mitigation plan must be provided with a planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Whilst initially advertised as a departure from DP1 and EP7 a detailed tree survey and arboriculture assessment was submitted, which assesses remaining trees at the site, but does note that trees were felled in the recent past north of the existing quarried area. It should be noted that tree felling does not in itself require planning permission, so the previous removal of woodland does not constitute a breach of planning control. A number of trees on the periphery of the proposed site have been identified in the tree survey and identified for retention/protection.

The surveys conducted confirm that parts of the site (due mainly to the riparian woodland along the Burn of Tarnish) are covered by the ancient woodland and woodland inventory designation. We note and acknowledge however from the submitted Habitat Survey, Tree Survey, Arboriculture Assessment that ancient woodland within the site was removed many years ago, when the hardstanding and laydown area was formed and no longer possess the qualities of ancient woodland. The hardstanding area has been long established, and the existing woodland to the west and north would be unaffected by the quarry.

A Tree Protection Plan is now submitted to protect the remaining trees adjoining the quarry site and the restoration plan would seek to replace the recently removed trees as the restoration takes place. A further condition is recommended ensuring the restoration planting occurs timeously, following completion of quarrying operations and the Remediation Strategy would see a good density of indigenous planting in a reasonable density averaging 1 plant per m², in randomly arranged self-groups of 10-15 using indigenous shrub and tree species. Whilst no direct replacement of trees historically felled can be pursued, the proposed site restoration would see in time a substantive re-introduction of trees to this locality.

Between the proposed tree protection works and proposed remediation planting, it is considered that the proposals now accord with DP1 and EP7.

Impact on the Environment/Biodiversity (DP10 and DP1)

A number of assessments have been carried out relating to mitigation and environmental protection inclusive of the Site Specific Management Plan, which gives comfort that matters such as site drainage, dust, noise, blasting and other potentially harmful effects of mineral extraction. As a relatively small quarry, with phasing focussed mainly on depths of extraction rather than geographic areas, staged restoration may prove difficult other than at the boundaries of the site.

Notwithstanding the remediation which is discussed below, and the conditions imposed to ensure a biodiversity and habitat enhancement at the end of the quarries operation, the quarry currently sits on an existing/former small quarry, agricultural land and former strip of mixed woodland that was cleared in advance of the planning submission and trees surveys. The site therefore has limited existing habitat benefit and as proposed, the opportunity to create a water feature, wetland habitat, grassland and provide substantive amounts of shrub/tree planting will be welcomed in an area with few ponds or lochs.

The site does not lie within any environmental designation, would be well contained and not affect the water course to the west, and as such would not result in any environmentally unacceptable impact.

Condition 3 is recommended, following on from the submission of a Restoration Strategy, to ensure that the specific planting, enhancement and aftercare measures referred generally in the Restoration Strategy are realised. SEPA made a similar request and therefore the condition ensures that biodiversity and habitat enhancements will be realised in accordance with minerals DP10 c) and associated policy guidance on quarry restoration.

As the archaeological assessment concluded there were no features within 500m of the site, and the proposals would not be prominent from any standing heritage assets so no further consideration or consultation was required.

Disturbance and disruption from noise, blasting, dust and potential pollution of water (DP1, EP12 and EP14)

A Hydrological & Hydrogeological Appraisal was submitted with the application which seeks to control water from the quarry across the phases of extraction. This has been assessed by both SEPA and Moray Flood Risk Management and they are content with the proposed arrangements. The proposals are designed to ensure that any water flows back into the quarry, and it is noted that sump within the quarry is proposed for both phases. It is noted that there are no water courses within the proposed quarry area. Submitted assessments and control measures also seek to minimise any run off of material being washed or carried from the site. The proposal would therefore comply with the requirements of policy EP12 Management and Enhancement of the Water Environment.

Similarly the below measures identified by the applicant are the subject of conditions and would ensure compliance with policy EP14 Pollution, contamination and hazards and various good practice measures contained within PAN 50 Control of Environmental effects of Surface Mineral Workings (including its appendices) are being adopted.

The applicant submitted a Noise Management Method Statement which proposes the following dust control measures:-

- Site roads will be kept smooth and in good condition and at moderate gradients to reduce vehicle noise.
- Site plant machinery and the operator's delivery/collection vehicles will be maintained in good condition, serviced and well lubricated to avoid unnecessary vehicle noise, and run as quietly as possible.
- Vehicles and machinery will not be left with the engine running for long periods of time when not in use.
- All ancillary plant such as generators, compressors and pumps and any processing plant to be used on site will be positioned so as to cause minimum noise disturbance.
- A 4m-high bund will be constructed in the northwest of the site in the stockpile area and will reduce the transmission of noise from the site.
- If noise is identified as becoming a nuisance to neighbours, further consideration of appropriate mitigation works will be undertaken.

The applicant submitted a Dust Management Method Statement which proposes the following dust control measures:-

- Trucks and lorries carrying material must be covered.

- The access track to the site will be surfaced with hard core.
- Site roads will be kept in a clean condition.
- If required, haul roads and stockpiles will be sprayed with water using a mobile bowser.
- All vehicles used within the site will have exhausts pointing away from the ground.
- Vehicle speed restrictions will be imposed.
- Any new bunds formed will be seeded with grass.
- Blasting will be carried out in a manner so as to minimise the production of dust.
- Activities most likely to generate dust will be avoided on dry windy days.

The submitted Local Residential Amenity Impact Management Method Statement (LRAIMMS) proposing similar mitigation will be supplemented by the condition sought by the Environmental Health Manager regarding noise, blasting and the provision of an additional bund at the south east corner of the site. The LRAIMMS also commits to operate the quarry such that;-

- vehicles will be run as quietly as possible with no engines being left on unnecessarily; and
- restoration of the site will aim to improve upon the existing habitats and provide greater ecological and amenity value. (This is addressed elsewhere).

The quarry is located over 200m away from the nearest residences, and it is not anticipated that there would be any substantive dust issues.

The Environmental Health Section have also assessed the proposed blasting and noise assessments, and subject to the additional noise bund being provided, the quarry will be operated in accordance with the requirement of policy DP10 Minerals b) where quarries should be operated with appropriate mitigation and environmental protections in place. Various conditions are recommended to protect the amenity/structure of neighbouring buildings. Conditions are recommended to ensure the measures listed above are carried out.

Access (DP1 and PP3)

Policy DP1 (ii) requires safe and suitable transportation links to be provided for new development. The proposed quarry will take access onto an existing public road, then directly onto the A96, and conditions and passing places have been proposed to ensure that this access is capable of serving the proposed quarry and other exiting users (including notably Backmuir lorry park).

As identified in the submitted Transport Statement and Supporting Statement the intent is to supply material to the Moray West onshore transmission works that would pass the site, which might see much of the material taken from the quarry along private haul roads adjacent to the cable route, but does acknowledge that if the quarry was not selected then Simmers Contracts Ltd. would still seek to extract approximately 25,000-30,000 tonnes per annum.

Whilst the access onto the Trunk Road has good visibility and is used to catering to HGV's, conditions recommended by both Transport Scotland for wheel washing facilities and Moray Council Transportation Section for a passing place, visibility splays and some re-surfacing work ensure the access is wholly capable of accommodating the proposal.

Restoration and aftercare proposals

Policy DP10 seeks assurances that former quarries are restored to high stand of design including seeking to maximise environmental improvements. The proposed restoration strategy gives an outline of how this would be achieved and proposes a further aftercare inspection to ensure the various habitats have become established.

As the proposal is for mineral extraction, pragmatically biodiversity benefits will only be realised at the conclusion of the 2 phases of quarrying and for a quarry if this size it is likely to be upon exhaustion of the quarry. The proposal incorporates various mitigation measures relating to its operation and includes tree protection measures for the remaining trees in the locality, it considered that (subject to the conditions recommended) the application is acceptable.

The proposed restoration plan, inclusive of drawing 137521/8105 illustrates and commits to the end provision and management of a water feature, wetland habitat, grassland and scrubland in the submitted restoration plan with an adequate density of indigenous shrub/tree planting. A condition is recommended ensuring that the restoration will maximise the environmental and biodiversity of the resultant landscape and similar to SEPA's position where they are content with a condition requiring a "Site Specific Restoration Plan" a condition is recommended providing more detailed assessment of the restoration plan in terms of species, number and position of landscaping and other measures will ensure full compliance with policies EP2 and DP10 (c).

The Extractive Waste Management (Scotland) Regulations 2010

The applicants have submitted a Site Specific Management Plan addressing Extractive Waste, which identifies there would be no extractive waste stored on the site, with the former agricultural land overburden being suitably stable and inert for retention in the bunds for future landscaping and restoration. SEPA have also reviewed this plan and are satisfied with its conclusions. The Site Specific Management Plan effectively constitutes the waste management plan for this quarry as required under the above legislation.

Recommendation

In light of the above and subject to imposition of the aforementioned conditions, the proposal will not give rise to any significant visual, landscape or environmental impacts. The application is considered to represent an acceptable departure from policy ER4 and compliant with all other relevant development plan policies. Conditional approval is recommended.

REASON(S) FOR DECISION

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

The proposal accords with the provisions of the Moray Local Development Plan 2020 (subject to the conditions recommended) and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP3 INFRASTRUCTURE & SERVICES

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

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

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

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

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

(ii) Transportation

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

- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

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

DP5 BUSINESS & INDUSTRY

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

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

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

b) Business Parks

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

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

c) Industrial Estates

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

d) Existing Business Areas

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

e) Other Uses

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use

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

g) Rural Businesses and Farm Diversification

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where

there is a locational need for the site and the proposal is in accordance with all other relevant policies.

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

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

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

h) Inward Investment Sites

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

Proposals must comply with Policy DP1 and other relevant policies.

DP10 MINERALS

a) Safeguarding Mineral Reserves

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

b) Mineral Operations

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/sites.
- Re-opening of a dormant quarry.
- ↯↯A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

Proposals for borrow pits will be supported, subject to compliance with other relevant policies, to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond.

Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased. Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

EP2 BIODIVERSITY

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

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

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

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

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

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

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

c) Control of Woodland Removal

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

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

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

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

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

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

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.
- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

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

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

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

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

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

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

Landscape Scheme

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact

Assessment for New Development Supplementary Guidance provides further detail on the information required.

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

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

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

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

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

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

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

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

and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

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

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

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

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

c) Water Environment

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

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

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

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

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

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

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.

EP16 GEODIVERSITY AND SOIL RESOURCES

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Applications should minimise this release and must be accompanied by an assessment of the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

Where areas of important geological interest are present, such as geological Sites of Special Scientific Interest (SSSI) or Geological Conservation Review (GCR) sites are

present, excavations or built development can damage, destroy and/or prevent access to the irreplaceable geological features. Development should avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, geological interests, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including, if necessary, measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on areas of peat and/or land habitat will only be permitted for these uses where:

- a) The economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) It has been clearly demonstrated that there is no viable alternative.

Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, movement, degradation or erosion of peat is avoided and proposes suitable mitigation measures and appropriate reuse.

Commercial peat extraction will not be permitted

WARD 02_17

21/00115/APP
12th February 2021

**Section 42 Planning Application for a variation of
 Condition 1 of Planning Permission ref 10/01801/MIN to
 extend duration of operations until 22nd September 2026
 at Cairdshill Quarry Keith Moray AB55 5PA
 for Tarmac Caledonian Ltd**

Comments:

- Application is a “major” development as defined under the Hierarchy Regulations 2009 because the site area exceeds 2 ha.
- Advertised under Schedule 3 of the Development Management Regulations 2013 and for neighbour notification purposes.
- No representations received.

Procedure:

- None.

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

Conditions/Reasons

1. The approval hereby granted is only for a limited period expiring on 22 September 2026.

Reason: In order that the Council, as Planning Authority may retain control over the use of the site and to ensure that further consideration can be given to the operation, effects and impact of the use approved herewith on the amenity and character of the area.

2. On expiry of the consent or completion of extraction, whichever is the sooner, all buildings, plant and machinery and other materials brought onto the site during extraction shall be removed and the site shall be restored in accordance with the approved plans within a period of 6 months to the satisfaction of the Council, as Planning Authority unless otherwise agreed.

Reason: In the interests of visual amenity and to ensure the proper reinstatement of the site.

3. Unless otherwise agreed with the Council, as Planning Authority an Aftercare Scheme, showing such steps as may be necessary to bring the site to the

standard required for sustaining the restoration proposals (as detailed in accompanying drawing number C161/21 and the Landscape and Visual Report prepared by Pleydell Smithyman Ltd), shall be submitted for the approval of the Council, as Planning Authority not later than 1 year prior to the date on which it is expected that Condition 2 will be complied with and the Aftercare Scheme shall show:

- a) The steps to be taken and the period during which they are to be taken; and,
- b) That the aftercare of the site shall be carried out in accordance with the Aftercare Scheme.

Reason: In the interests of visual amenity and to ensure the proper reinstatement of the site.

- 4. Unless otherwise agreed with the Council, as Planning Authority:
 - a) The mobile plant and stockpiles shall be maintained in their present positions at the lowest level available in the view of the Council, as Planning Authority.
 - b) Stockpiles shall be no higher than 8 metres.

Reason: In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

- 5. Unless otherwise agreed with the Council, as Planning Authority the annual rate of extraction shall not exceed 75,000 tonnes.

Reason: In order to retain control over the working of the site and its impact on the area.

- 6. Unless otherwise agreed with the Council, as Planning Authority all vehicles leaving the site shall turn right (east) towards the A96.

Reason: In the interests of road safety.

- 7. If in the view of the Council, as Planning Authority unacceptable amounts of material are carried onto the public road from the site then;
 - a) plans shall be submitted for the approval of the Council, as Planning Authority showing details of vehicle wheel washing facilities; and,
 - b) any wheel washing facilities approved shall be put in place, to the satisfaction of the Council, as Planning Authority, no later than 2 months from the date of their approval.

Reason: To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

- 8. That, notwithstanding the provisions of Paragraphs 1a and 1b of Class 55 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, a planning application will be required for the installation of any further buildings (toilets etc.) not specified in this or any previous planning approvals and permitted development rights under this Class are hereby withdrawn.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) any proposal to install any additional plant or machinery at the site shall require planning consent.

Reason: In the interests of amenity and effective planning control and in order to control any processing of material on site.

10. Unless otherwise agreed by the Council, as Planning Authority, the development works shall be implemented in accordance with the blasting regime set out in document entitled "Cairdshill Quarry, Environmental Statement for Drilling and Blasting Operations dated 13 December 2010", prepared by Bam Ritchies, which was previously submitted for approval on 14 June 2011.

Reason: In order to control these effects of the working on the amenity of the area.

11. Ground vibration as a result of blasting operations to form borrow pits at the site shall not exceed a peak particle velocity of 10mms-1 in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 12mms-1 as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

12. Unless otherwise agreed by the Council, as Planning Authority, the development works shall be implemented in accordance with the dust regime set out in document entitled "Cairdshill Quarry, Environmental Statement for Drilling and Blasting Operations dated 13 December 2010", prepared by Bam Ritchies, which was previously submitted for approval on 14 June 2011.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

13. Unless otherwise agreed with the Council, as Planning Authority, noise emissions from the site shall not exceed the background level by more than 5 dBA measured at the nearest noise sensitive dwelling.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

14. Unless otherwise agreed with the Council, as Planning Authority there shall be no working at the site outwith the hours of 7 am to 6 pm on Mondays to Fridays and 7 am to 12.30 pm on Saturdays. Any occasional working which may be required outwith these hours shall be agreed, in advance, with the Council, as Planning Authority.

Reason: In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

15. Within 3 months of the date of this permission, a Site Specific Management Plan shall be submitted to and approved in writing by the Council, as Planning Authority. The Plan shall cover all site specific environmental sensitivities, pollution prevention and mitigation measures identified to avoid or minimise environmental effects including (but not limited to) groundwater, surface water, waste management, noise and dust impacts associated with the development.

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

Reason: In order to minimise the impacts of the mineral extraction works on the environment and ensure up-to-date operating and environmental standards on site.

Reason(s) for Decision

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

The proposed variation to condition 1 of planning permission 10/01801/MIN is acceptable, complies with the relevant provisions of the Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

List of Informatives:

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

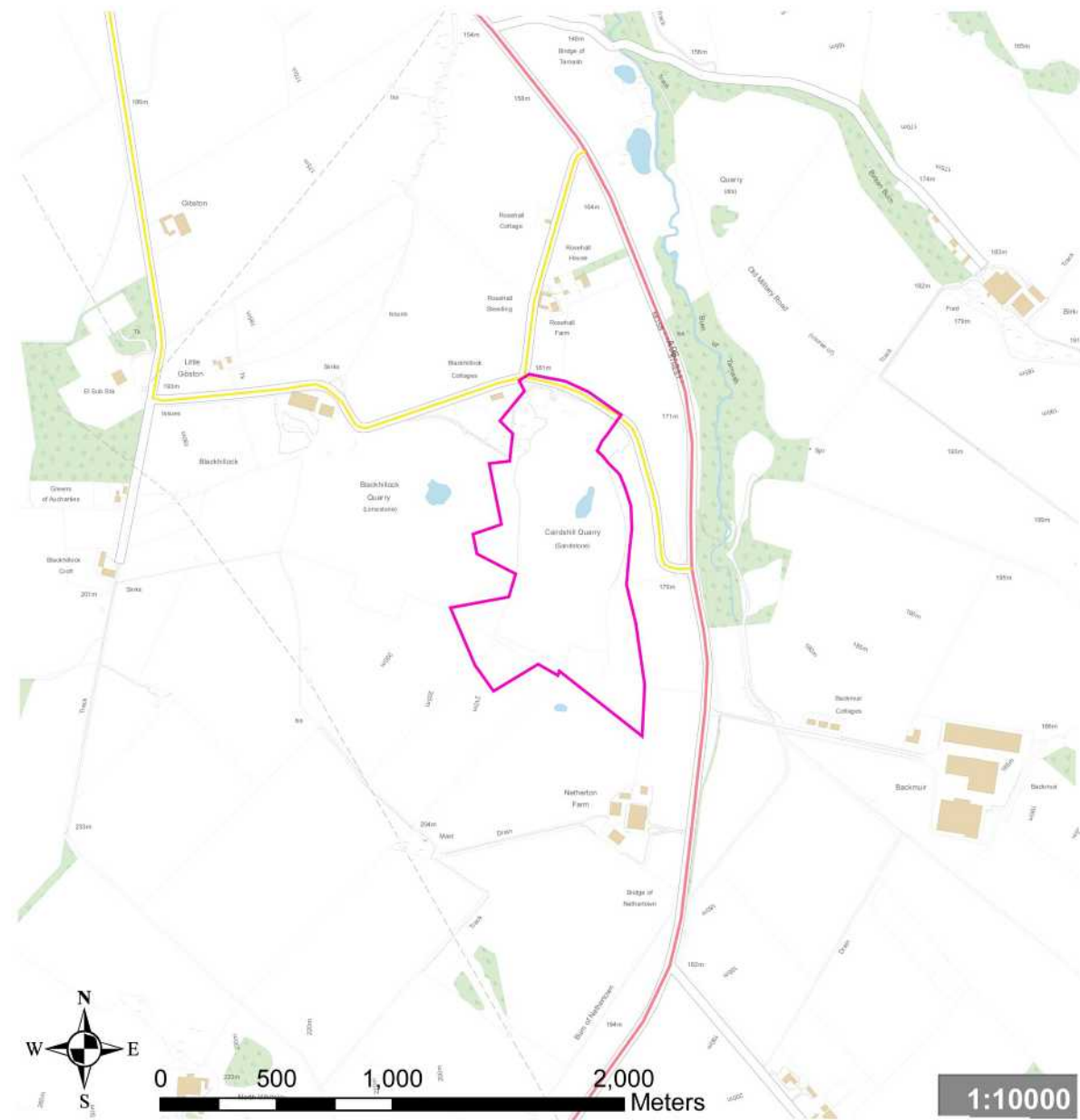
Regulatory advice for the applicant – Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulations team in your local SEPA office at: <https://www.sepa.org.uk/contact/>

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
C161-53-2	Location plan
C161-53-1	Site location plan
C151-00054	Site layout and location of stockpiles

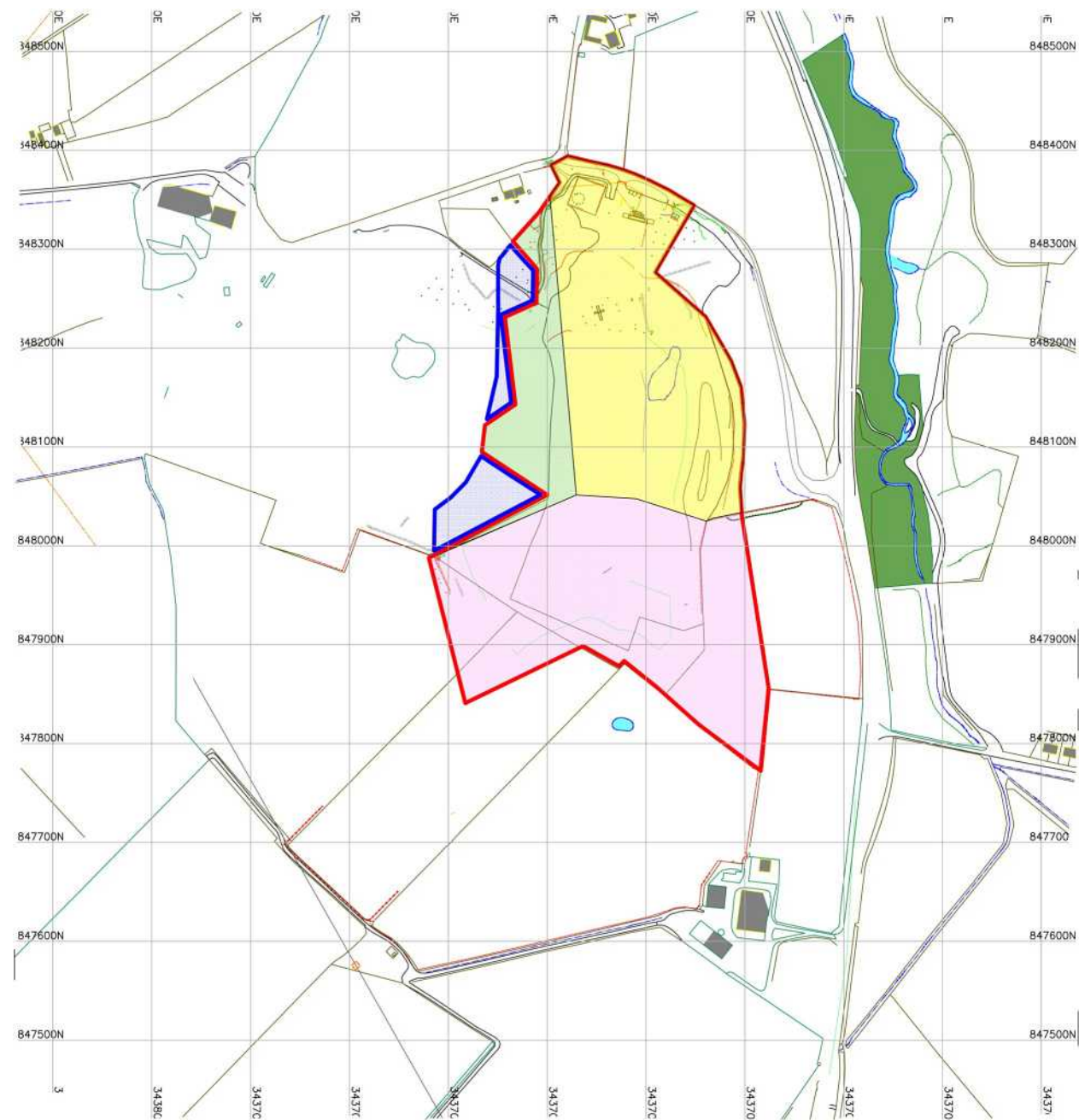


Applicant Name:
Tarmac Caledonian Ltd

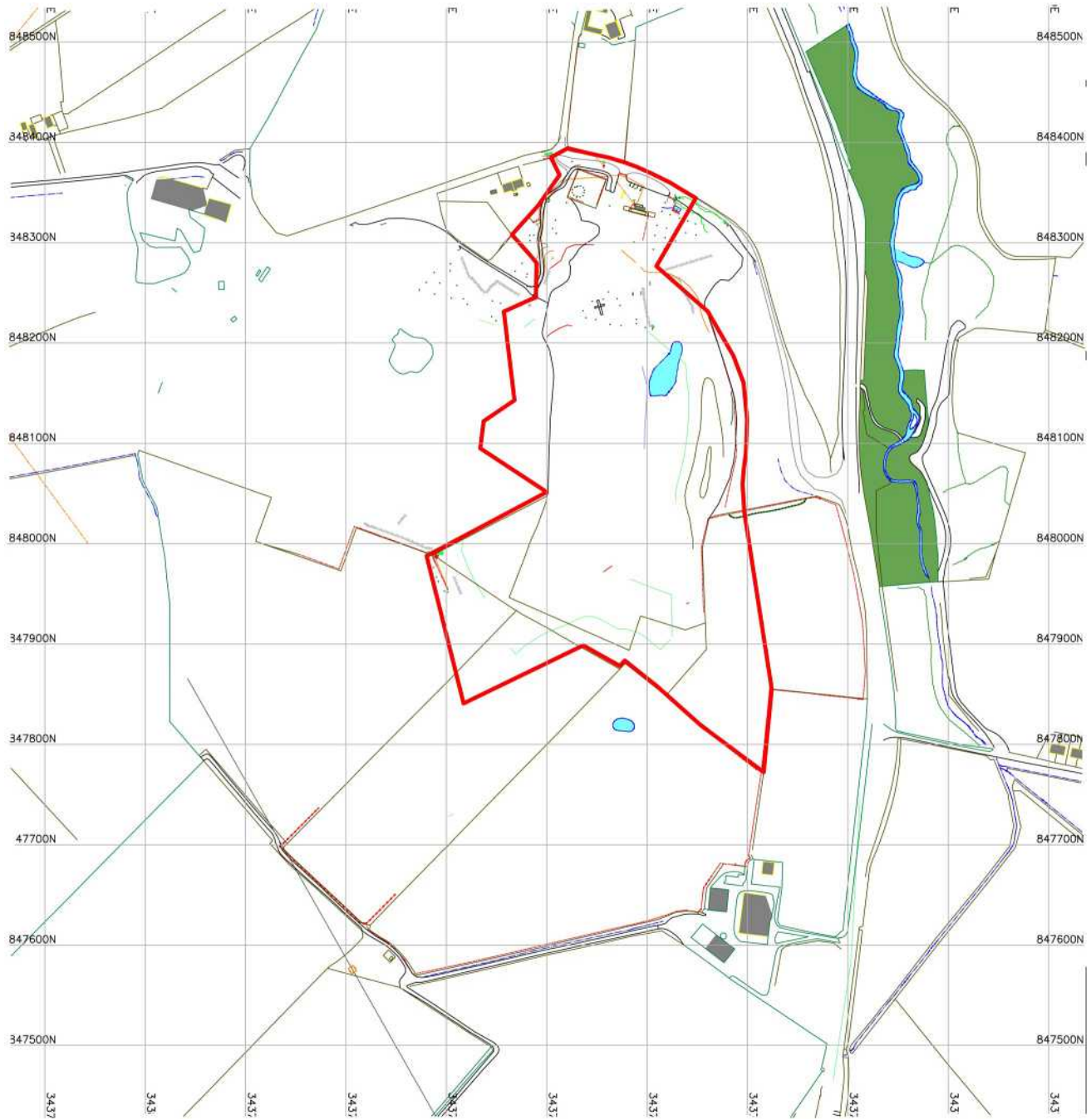
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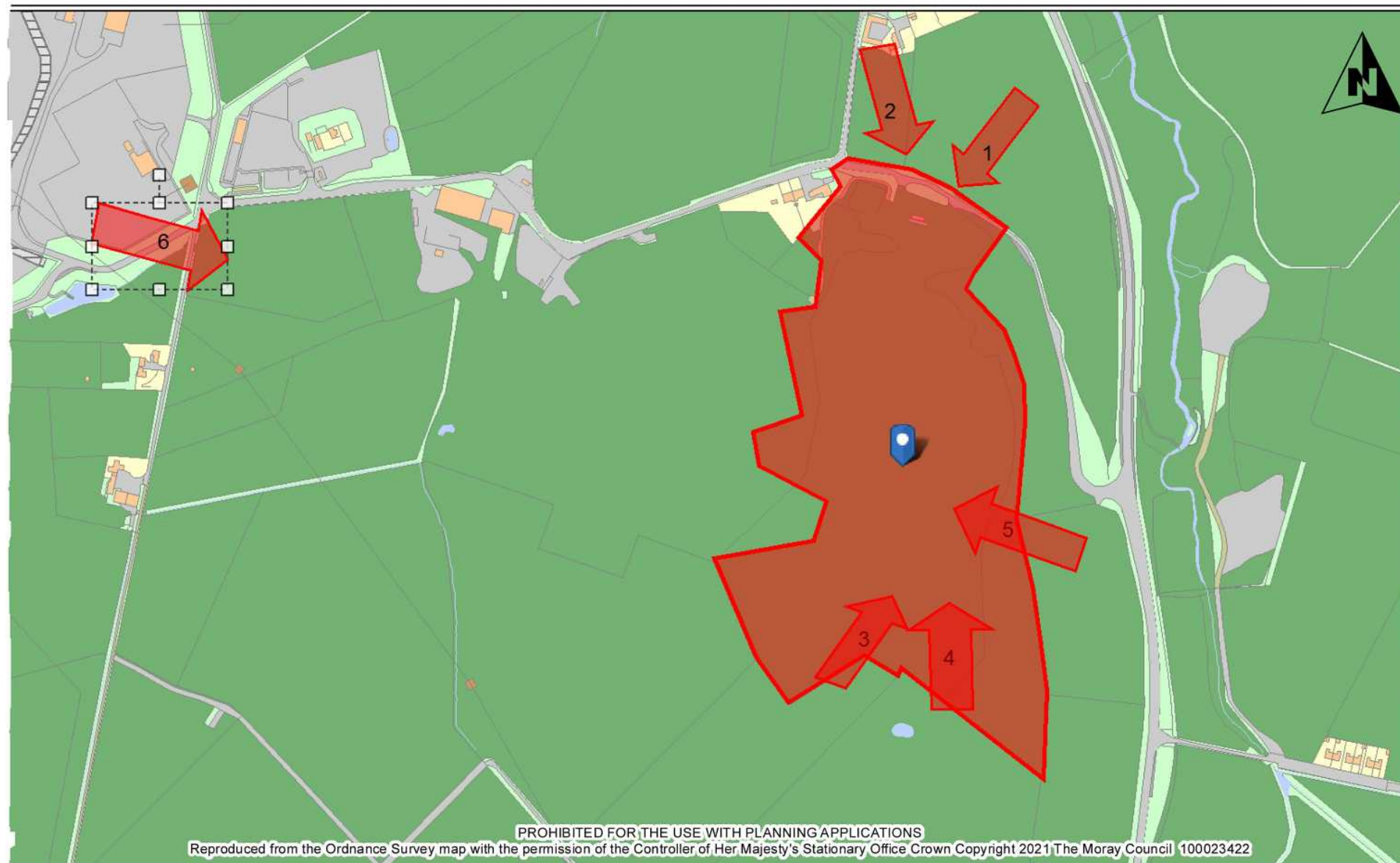
Site Location



Site plan



21/00115/APP - Photograph positions



Map Description: Arrows point in direction photo was taken

Scale: 1:5,000 @ A4



Phot 1—Site entry



Photo 2—Site exit

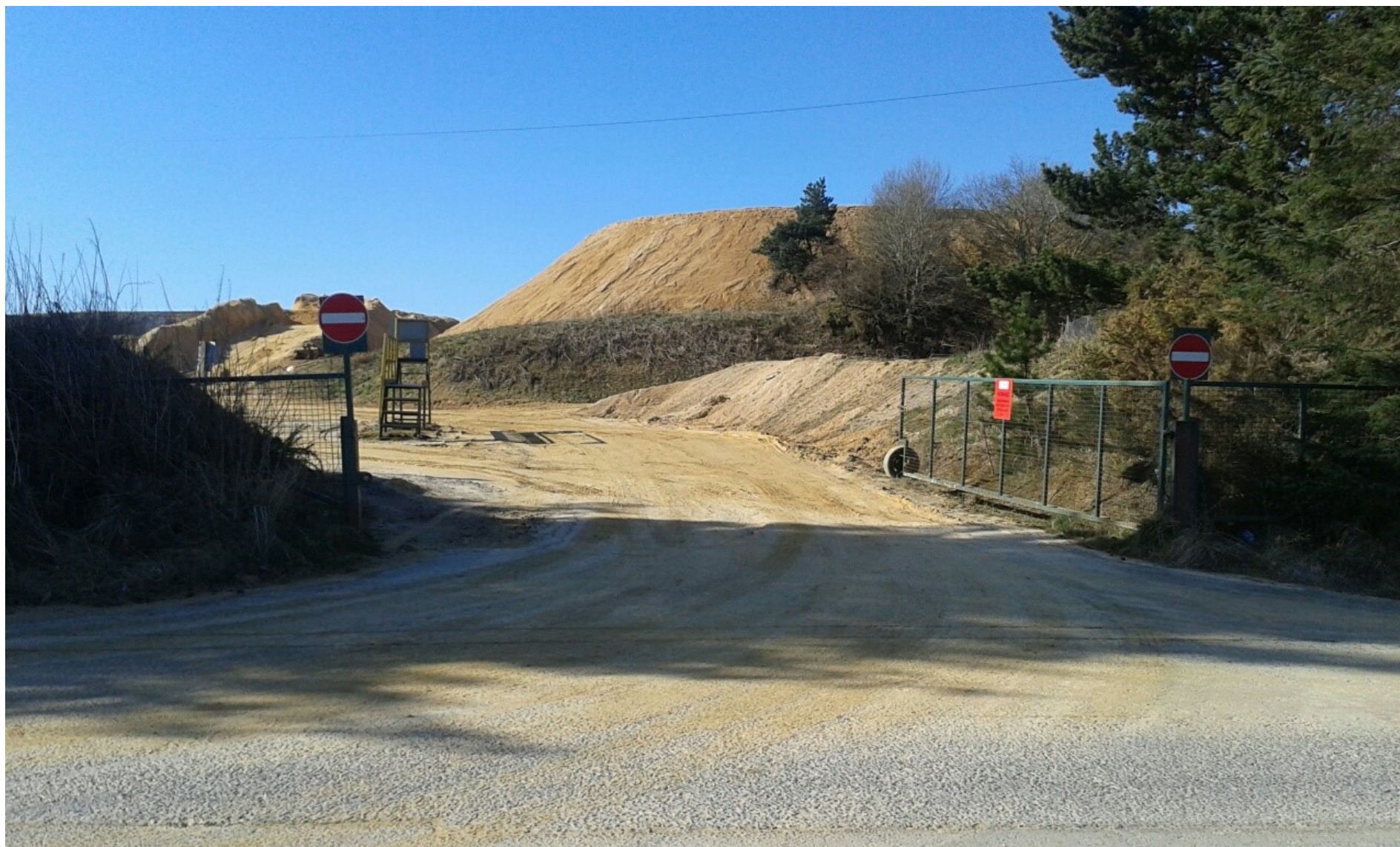


Photo 3 – looking northeast towards eastern flank of quarry (part restored)



Photo 4 - looking north towards mouth of quarry and office/weigh bridge



Photo 5 – looking west towards inner quarry and ridge



Photo 6 - looking east towards quarry with Blackhillock Quarry in foreground



PLANNING APPLICATION: 21/00115/APP

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

THE PROPOSAL

- Application under Section 42 of the Town and Country Planning Act (Scotland) 1997 (as amended) to vary condition 1 of Planning Permission 10/01801/MIN to extend the duration of operations at Cairdshill Quarry, Keith for a further 5 years until September 2026.
- Planning approval 10/01081/MIN dated 9 February 2011 granted consent for a minor extension to the quarry area, together with continued extraction and restoration works. Condition 1 of this consent limits the permission for a 10 year period which expired on 1 February 2021.
- The submitted application would allow for remaining reserves in the quarry to be extracted and would tie in with the expiry date of an associated consent 16/00402/MIN granted in 2016 (extension to the quarry to work a ridge area between Cairdshill and the adjacent Blackhillock Quarry to the west).
- The quarry is worked mainly for decorative products used in the construction industry. Extraction would continue at an annual average output of less than 50,000 tonnes. The applicant has confirmed that there would be no change to operational procedures and development and restoration will proceed as currently permitted.
- The site comprises processing and stockpiling areas, areas of overburden/waste sand/topsoil, offices, weighbridge, a parking area, two access(s) and settlement pond. The mobile plant being operated include loading shovels, excavator, mobile screens and a crusher.
- A Concept Restoration Plan approved as part of the planning consent 10/01801/MIN, and updated with associated consent 16/00402/MIN sets out a scheme of restoration works for the site once extraction has ceased; this includes use of quarry restoration techniques to integrate benches/slopes including infilling with overburden to create restoration batter slopes, native tree and shrub planting, species rich grass and wet scrapes/damp areas of habitat creation.
- The application is supported by a Planning Statement and background information which accompanied the previously approvals referred to above.

THE SITE

- The site is an established quarry of 12.29 ha, located within open countryside 2.5km to the southeast of Keith. It is accessed via minor public road U43H which joins onto the A96 trunk road 330m to the southeast.
- The site is bounded by farmland to the north and south, an area of woodland to the east and Blackhillock Quarry to the west.
- It is not subject to any landscape character or environmental designations as identified in the Moray Local Development Plan 2020.

HISTORY

29 March 2021 - Screening Opinion adopted for this current application where, in taking account of the characteristics and location of the development and characteristics of the potential impact associated with varying the condition to enable mineral operations and site restoration to continue, the proposal is a Schedule 2 development but would not be likely to result in significant environmental effects and therefore, does not require to be subject to EIA procedures.

16/00402/MIN – Planning consent for minor extension to mineral extraction area – granted 22 September 2016. This area forms the ridge area and western part of the quarry and is currently being worked.

10/01081/APP – Planning consent for minor extension to mineral extraction area – granted 9 February 2011. The consent continues to operate under this consent.

10/01799/SCN - Screening Opinion adopted 9 November 2010 for minor lateral extension to quarry; assessment confirmed the proposal to be a Schedule 2 development but not likely to result in significant environmental effects, and therefore not requiring to be subject to EIA procedures.

06/02475/FUL - Renew planning permission 96/00262/FUL extension of the existing hard rock quarry – granted 5 March 2007.

96/00262/FUL – Planning consent for extension of existing hard rock quarry – granted 12 December 1996.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.
- Advertised as a development of a Class specified in Schedule 3 of the Development Management Regulations 2013.

CONSULTATIONS

Strategic Planning and Development – No objection. Notes that the proposal is a Section 42 application to solely vary the expiry date of planning permission 10/01801/MIN, and that the quarry is operational with development established through previous consents, with no physical changes proposed. Further notes that the proposed extension of the expiry date to 22 September 2026 will bring the date in line with planning permission 16/00402/MIN, and the quarry is well established and contains permitted reserves which contribute towards Moray's supply of construction aggregate reserves.

Transportation Manager - No objection.

Environmental Health - No objection, subject to retention of the existing conditions contained within consent 10/01801/MIN relating to noise, dust, vibration and operational

hours. Notes conditions regarding blasting and dust regimes are to be updated to reflect previous details submitted for approval, agreed by Environmental Health.

Environmental Health, Contaminated Land - No objection.

Environmental Health, Private Water – No objection.

Moray Flood Risk Management – No objection.

Developer Obligations – No developer obligations sought.

NatureScot - No comments to make.

SEPA – Notes from the submitted information the proposals include a time extension, removal of the narrow ridge left between Cairdshill Quarry and Blackhillock Quarry and a revised restoration scheme for Cairdshill Quarry to include this area. Also notes that "there will be no change to operational procedures and the development and restoration will proceed as presently permitted". We can confirm we have no specific comments or concerns in regard to the above application.

In regard to Site Specific Management Plans (SSMP), SEPA supports the council requesting this information. SEPA do not require consultation on the SSMPs for this specific application but highlights that the operator should adhere to the "Operators Should" section of PAN 50 and comply with all relevant environmental legislation.

Strathisla Community Council – No response received at the time of writing this report.

Transport Scotland – Does not advise against the granting of planning permission.

Health and Safety Executive (Quarries) - No response received at the time of writing this report.

Aberdeenshire Council - No response received at the time of writing this report.

OBJECTIONS-REPRESENTATIONS

None received.

OBSERVATIONS

Legislative Matters

Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended allows applicants to apply to develop land without compliance with conditions previously attached to a planning consent. In determining such an application, the Council, as Planning Authority can only consider the conditions subject to which planning permission should be granted and may:

- grant permission unconditionally (i.e. remove the conditions attached to the planning consent);
- grant permission conditionally with differing conditions; or
- refuse the application (i.e. keep the conditions attached to the planning consent).

In terms of development type although this Section 42 application is a major proposal (exceeding 2 hectares), it is not subject to pre-application consultation procedures under Development Management regulations.

The proposal has been assessed against the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, which has established that the proposal is not EIA development and does not requiring formal EIA procedures.

Planning Policy Assessment

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

Scottish Planning Policy 2014 (SPP) provides direction on mineral extraction proposals and the need to secure appropriate provision of mineral resources, subject to appropriate site restoration.

Minerals applications are also assessed against Planning Advice Notes (PAN) 50 'Controlling the Environmental Effects of Surface Mineral Workings' and PAN 64 'Reclamation of Surface Mineral Workings' and their associated Annexes.

Relationship to Minerals Policy (DP10)

Cairdshill Quarry is identified as a safeguarded mineral site within the Moray Local Development Plan 2020. The current application would facilitate the continued extraction of the remaining mineral reserves at the quarry, its restoration and aftercare. Governing policy DP10 Minerals is supportive of such proposals which allow for extensions to existing minerals operations and/or sites. The current proposal seeks to continue to work within the previously approved quarry area, and to extract mineral reserves to previously agreed levels albeit within a longer time period. The proposal does not involve the physical expansion of the quarry area beyond that previously consented.

From policy DP10, all mineral developments are required to avoid or mitigate satisfactorily their impacts. Following consideration and with all conditions originally applied to application 10/01801/MIN re-imposed, consultees have raised no objection the proposal. The arrangements for site restoration and extractive waste management are also considered acceptable.

Based on the above considerations, where no unacceptable or significant adverse effects are identified, and subject to the development continuing to operate in a similar manner as at present, the proposal to vary condition 1 to enable quarry operations at Cairdshill to continue for a further 5 years (with re-imposition of conditions) is acceptable and would comply with policy DP10.

Impact on the Environment and Pollution (DP10, DP1 and EP14)

The site is not subject to any landscape, cultural or natural heritage designations. Previous operations at the quarry have not given rise to any specific environmental issues.

Scottish Planning Policy (SPP, paragraph 248 refers) recommends the use of rigorous procedures to monitor consents, including restoration arrangements, and reviews of mineral permissions to ensure that up-to-date operating and environmental standards are

being met. In this regard, it is noted that the original consent contained a condition addressing restoration/aftercare, but did not include a condition covering pollution prevention and environmental management. Reflecting these requirements and associated guidance within PAN 50, a condition shall therefore be attached requiring the submission of a Site Specific Management Plan to identify/address all environmental sensitivities, pollution prevention, ground/surface water and mitigation measures to avoid or minimise environmental effects. This approach has been supported by SEPA and agreed with the applicant, and will ensure compliance with policies DP10, DP1 and EP14.

Landscape and Visual Impact (DP10 and DP1)

Supporting Landscape and Visual Impact information submitted with the previous applications informed consideration of landscape character and visual impacts during both the operational and post restoration stages of the development. These concluded that the proposed extraction works would be minor in scale and generally well screened by existing landform and vegetation (with limited existing and/or potential residential receptors within the locality), located within a landscape that has the capacity to absorb the proposal, and that progressive mitigation and restoration measures integrated within the scheme would further minimise adverse visual impacts. These findings remain unchanged and are applicable to the current application.

From on-site observations it was noted that a number of stockpiles within the quarry exceed the 8 metre height limit as set out in condition 7 (unless otherwise agreed) of the original consent; to aid assessment the applicant has submitted a site plan identifying the heights and locations of stockpiles on the site relative to the working edges of the quarry, these are acceptable and can be agreed under the terms of the condition which is to be re-imposed.

With the above in mind the proposal complies with DP10 and DP1 requirements in terms of landscape and visual impacts.

Amenity (DP1 and EP14)

The quarry will continue to operate as at present within consented parameters, and this has been confirmed by the applicant in supporting information. The area in which the site is located is characterised by a dispersed settlement pattern, which also includes significant rural businesses and activity with large infrastructure projects, Bear Scotland HGV and gritting compound and the adjoining Blackhillock Quarry. The nearest sensitive properties are Blackhillock Cottages which lies adjacent/to the west of the quarry entrance and Netherton Farm, 350m to the south east of the site. The quarry has operated successfully at this location alongside this established development without adverse impact, and with no proposed change to operational procedures and adherence to conditions from the previous consent being re-imposed providing mitigation, the proposal would not give rise to any unacceptable impacts.

These conditions to be carried forward relate to a blasting regime, ground vibration (from blasting operations), dust regime, noise limits, a limit on the annual rate of extraction and hours of operation. The Environmental Health Section has been consulted and has raised no objection to the granting of permission on the basis the conditions will be re-imposed and updated (to reflect previously submitted details of blasting and dust control regimes); it has also highlighted that no complaints have been received regarding operations at the quarry.

Based on the above considerations the proposal would not result in any unacceptable impacts upon the amenity of neighbouring houses or to the surrounding area, and as such would comply with policy DP1 and EP14.

Access (DP1 and PP3)

The site is accessed via a minor public road U43H which joins onto the A96 trunk road to the southeast. Supporting information confirms that annual level of extraction will not increase and that operational procedures will proceed as presently permitted. Both Transport Scotland and the Transportation Section have raised no objection to the extension of time, and conditions attached previously requiring quarry traffic leaving the site to turn right (east) towards the A96 and vehicle wheel washing arrangements shall be re-imposed in the interests of the road safety. On this basis, the proposed variation to continue operations for a further 5 years complies with policies DP1 and PP3.

Restoration and Aftercare (DP10)

Policy DP10 requires restoration to be undertaken at the earliest opportunity when excavation has ceased, for this to be designed/implemented to a high standard, and for operators to provide details of restoration programmes (including financing, phasing and aftercare).

The existing restoration arrangements and conditions in respect of this will remain in force. As already outlined, a Concept Restoration Plan approved as part of the planning consent 10/01801/MIN, and updated with associated consent 16/00402/MIN sets out a scheme of restoration works for the site once extraction has ceased; this includes use of quarry restoration techniques to integrate benches/slopes including infilling with overburden to create restoration batter slopes, native tree and shrub planting, species rich grass and wet scrapes/damp areas of habitat creation. A condition requiring submission and approval of detailed aftercare proposals to sustain the restoration proposals shall be re-imposed. In light of this, the proposal would comply with the requirements of policy DP10.

As part of the previous permissions, the requirements for site restoration after mineral extraction did not include nor require provision of a bond or similar financial arrangement to facilitate restoration of the site. The applicant/quarry operator has confirmed that it is a member of the industry-based Minerals Products Association Guarantee Fund. Mineral workings are covered by the Fund which incorporates a commitment to restoration and gives a financial guarantee to planning authorities against a restoration default i.e. where an operator is unable to meet restoration obligations arising from a planning condition as a result of financial failure. This arrangement would address the issue of financial guarantee referred to in policy DP10.

Extractive Waste Management (Scotland) Regulations 2010 (DP10)

The quarry was previously assessed against the Extractive Waste Management (Scotland) Regulations and for the need for a waste management plan in 2012. The nature of operations and geology resulted in the quarry being exempt (waived) from the need for an extractive waste management plan, where no non-inert extractive waste was found to be present on site and on this basis. As there is no proposed change to the approved development works (other than the time period for which they would be implemented) and there has been no change to the Regulations since the original/most recent planning consent (10/01801/MIN), this waiver remains valid under the Regulations at this time.

Conclusion and Recommendation

This application seeks to extend the consent period of extraction and restoration of an established quarry, a safeguarded mineral reserve identified in the MLDP 2020, to facilitate extraction of remaining reserves and its restoration. Subject to conditions previously applied being re-imposed (and additional condition regarding a Site Specific Management Plan), the proposal to continue operations and extract the remaining available resource within the confines of the existing quarry accords with planning policy and can be achieved without unacceptable environmental effects.

In accordance with the applicant's agent's request to vary the condition, it is recommended that planning permission be granted for the 5 year period as applied for, to enable existing reserves to be extracted (to a defined depth of working) and for site restoration thereafter as previously agreed.

REASON(S) FOR DECISION

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

The proposed variation to condition 1 of planning permission 10/01801/MIN is acceptable, complies with the relevant provisions of the Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

**Author/Contact
Officer:**

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

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP3 INFRASTRUCTURE & SERVICES

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

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

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

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

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

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

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

(ii) Transportation

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

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

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

(iii) Water environment, pollution, contamination

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

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

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

DP10 MINERALS

a) Safeguarding Mineral Reserves

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

b) Mineral Operations

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/sites.
- Re-opening of a dormant quarry.
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

Proposals for borrow pits will be supported, subject to compliance with other relevant policies, to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond.

Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased. Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

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.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c) Water Environment

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

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

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

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

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

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

WARD 05_17

21/00181/APP
18th February 2021

**Section 42 Planning Application to Vary Condition 1 of
 Planning Permission 15/01768/APP to extend duration of
 working for a further 5 years Auchtertyre Quarry Elgin
 Moray
 for Tarmac Caledonian Ltd**

Comments:

- Application is a major development as defined under the Council's Scheme of Delegation and also under the Hierarchy Regulations 2009 as it relates to mineral development on a site that exceeds 2ha.
- The proposal has been advertised under Schedule 3 of the Development Management Regulations 2013 and for neighbour notification purposes.
- One representation received.

Procedure:

- None

Recommendation – Grant planning permission subject to the following:

Conditions/Reasons

1. The permission hereby granted shall be for a limited period only and shall cease on 28 February 2026 (the 'cessation date') by which time and prior to that cessation date, the application site shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as planning authority (see Condition 4 below).

Reason: To ensure an acceptable form of development enabling the development to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, to enable the Council, as planning authority to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and appearance of the site and surrounding area together with securing removal of all site infrastructure used in the extraction process prior to embarking upon the restoration of the site.

- 2 As part of the development hereby approved:
- a) the permission hereby granted is for the extraction of sand and gravel only;
 - b) there shall be no extraction of sand and gravel below the level (46m AOD) shown on the approved drawings (A052/00027 and 00028) or within any groundwater encountered;
 - c) notwithstanding the provisions of Class 55, Part 16 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, no (fixed) buildings/structures, plant or machinery etc. shall be installed, erected or operated on the site without the prior written approval of the Council, as planning authority;
 - d) prior to expiry of the permission or upon completion of extraction, whichever is the sooner, all buildings/structures, plant and machinery including mobile plant and machinery, etc. shall be permanently removed from the site;
 - e) the extraction of sand and gravel shall proceed progressively in an easterly direction across the site (drawing A052/00024 refers);
 - f) sub-soil and top-soil shall be stripped and stored separately, in accordance with details which shall be submitted to and approved by the Council, as planning authority prior to the commencement of the development regarding the location and maximum height of all stockpiles of stored soil materials (and where the latter should not exceed 6m as measured from the base level of the excavated quarry area (46m AOD as shown, drawings A052/ 00027 and 00028 refer));
 - g) there shall be no washing or other processing of the extracted material on the site;
 - h) all vehicles entering/leaving the site shall use the existing site access (as identified on drawing A052/00023);
 - i) the annual rate of extraction shall not exceed 60,000 tonnes, and the operator shall maintain monthly records of output/production from the excavated area, to be made available to the Council, as planning authority at any time and on request;
 - j) there shall be no working at the quarry outwith the hours of 07:30 - 17:00, Monday to Friday, and 07:30 - 12:00 noon, Saturdays unless with the prior written approval of Council, as planning authority;
 - k) on expiry of the permission or completion of extraction, whichever is the sooner, the site shall be restored to agricultural grassland (see Condition 4).

Reason: To ensure the operation of the quarry continues to progress in an environmentally acceptable manner (and in accordance with the terms of previous permissions granted at the site) and in the interests of the amenities and appearance of the development and the surrounding area.

- 3 No development shall commence until a Site Specific Management Plan has been submitted to and approved in writing by the Council, as planning authority in consultation with SEPA. The plan shall cover all site specific environmental sensitivities, pollution prevention and mitigation measures identified to avoid or minimise environmental effects including (but not limited to) groundwater, surface water, waste management, noise and dust impacts associated with the development.

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

Reason: In order to minimise the impacts of the mineral extraction works on the environment and ensure up-to-date operating and environmental standards on site.

- 4 Notwithstanding the indicative final site restoration details shown on A052/00025 (which are not approved), at least one (1) year prior to mineral workings ceasing on the site and prior to any phased restoration works, a Site Specific Restoration and Aftercare Plan shall be submitted to and approved in writing by the Council, as planning authority in consultation with SEPA. The plan shall include (but not be limited to) the following information:
- proposals for phased working and progressive restoration;
 - existing and proposed finished ground levels relative to a fixed datum;
 - surface water drainage arrangements;
 - details of any buffer strips between the works and any water features, wetlands or peatlands on site and other measures to minimise pollution;
 - demonstration that the restoration proposals will not have a detrimental impact on the water environment, including groundwater quality and quantity and an assessment of the effect that any backfilling below the water table will have on groundwater flow;
 - a programme for the completion of the restoration and subsequent maintenance arrangements.

Thereafter, all site restoration and aftercare works shall be implemented in accordance with the approved plan.

Reason: To retain control over this temporary form of development and ensure that the site is appropriately restored in the interests of the protection of the environment.

- 5 The site access onto the C3E Elgin - Pluscarden - Rafford Road shall be maintained at all times throughout the lifetime of the development (unless otherwise agreed in writing with the Council, as Planning Authority) in accordance with section 3.2 of the previously approved Junction Maintenance Scheme, namely:
- the junction will undergo weekly cleaning during operational periods at the quarry, and at the request of Moray Council;
 - grass and other vegetation within the verges will be cut to ensure it does not encroach into the visibility splay;
 - the ditch located within the southern verge will be cleared from time to time, and at the request of Moray Council, to ensure surface water is channelled from the access track into the ditch and away from the public road; and
 - the road surface will be kept under review and where potholes develop, they will be repaired.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous materials

and surface water in the vicinity of the access, an acceptable development in the interests of road safety and that use of the access does not create any hazard to other roads users.

Reason(s) for Decision

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

The proposed variation to Condition 1 to extend the extraction period of the quarry is considered suitable in terms of the provisions of the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

List of Informatives:

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

The development shall be suitably controlled to ensure noise and dust emissions do not give rise to a statutory nuisance in terms of the Environmental Protection Act 1990.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See consultation response dated 19 October 2015 (as already provided to the applicant's agent (by SEPA)) regarding detailed advice in relation to pollution prevention and environmental management and restoration and aftercare schemes, including information about the expected content and preparation of the Plans required by Conditions 3 and 4, together with reference to detailed sources of SEPA information and advice, including additional regulatory requirements and advice for the applicant.

NATURESCOT (formerly SCOTTISH NATURAL HERITAGE) has commented that:-

Sand Martins are known to be present on site. It is an offence to disturb or destroy a Sand Martin's nest when in use. Sand Martins do not tend to use older burrows from previous years in case of disease and old burrows can be destroyed outwith the bird breeding season.

Sand Martins are attracted to freshly formed faces in which they burrow and nest during the breeding season. To avoid the birds nesting into faces that are to be worked on during the summer, a 'sacrificial face' could be excavated just prior to the birds arriving in the spring. This would be a sand face that could be sculpted to near vertical and allow birds to use that face during the summer without disturbance. All operatives at the quarry must be made aware this is a 'wildlife area' to ensure there is no accidental damage to the face. This may allow work to continue in other areas of the quarry. Sand Martins are fairly adaptable and would habituate to quarry operations quickly so even working in relative proximity to the 'sacrificial face' should be possible.

Faces that are to be excavated during the summer should either be worked continuously, which would prevent the birds from burrowing, or faces should be left with a sloping face that is less attractive to burrowing i.e. if the slope is formed such that a predator such as a fox or stoat could gain access up to the exposed sand then it is unlikely that birds would nest. Alternatively, sand heaps and faces could be covered with large tarpaulins/sheets to prevent birds gaining access to burrow.

If it is not possible to accommodate nesting Sand Martins in the summer, faces must be uncondusive to Sand Martin burrowing (as above) and/or covered when not being worked on.

Sand Martins will take advantage of any suitable surface they can which is why it can be easier to provide them with a 'safe space' each year and thus avoid the conflicts with quarry operations.

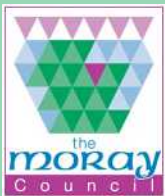
THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

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

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan
	Site plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

21/00181/APP

Site Address:

Auchtertyre Quarry

Elgin

Applicant Name:

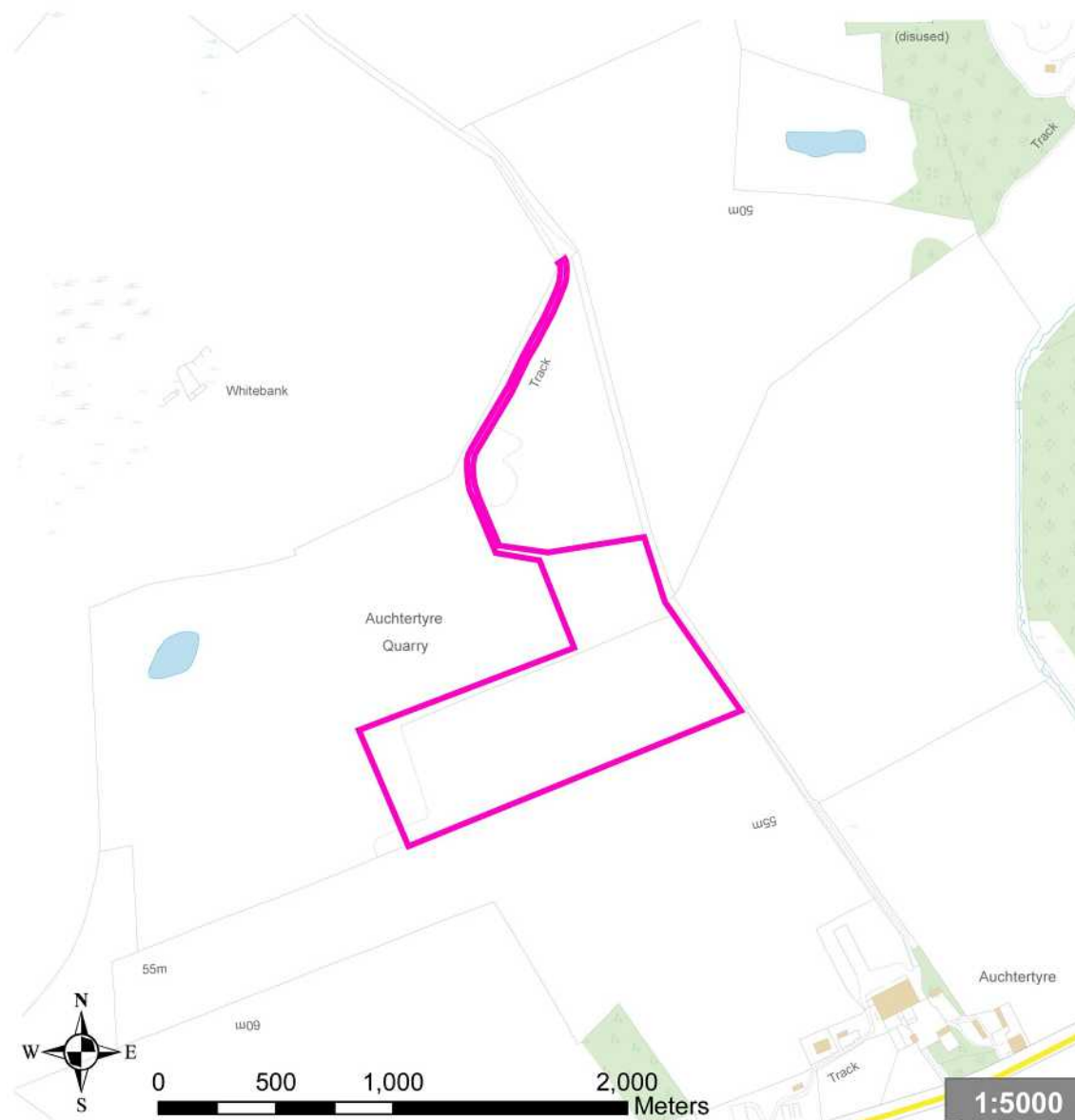
Tarmac Caledonian Ltd

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Location Plan



Site Location



Site plan



Photo location plan

21/00181/APP - Photograph positions



Map Description: Arrows point in direction photograph was taken

Scale: 1:5,000 @ A4



Photo 1—access point to private track



Photo 2—Previously worked areas to be restored



Photo 3—Area to be extracted (1)



Photo 4 —Area to be extracted (2)



PLANNING APPLICATION: 21/00181/APP

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

THE PROPOSAL

- Application under section 42 of the 1997 Act to vary condition 1 of Planning Permission 15/01768/APP.
- Planning permission 15/01768/APP gave consent for the continued extraction of sand and gravel, along with reinstatement works at Auchtertyre Quarry near Mosstowie.
- Condition 1 limited permission for the continued operation of the quarry and reinstatement works for a period of 5 years that expired on 28 February 2021.
- The proposed variation seeks an additional period for operations and reinstated for 5 years, with the proposed wording suggested by the applicant varying the condition to expire on 28 February 2026.
- Application 15/01768/APP confirmed that no permanent buildings/structures are required on site.

THE SITE

- Approx. 3.8ha area located towards the south-eastern corner of the approx. 16.8ha Auchtertyre Quarry. The remaining (previously worked and part restored) quarry area is not part of the current application site as defined but is land in which the applicant/quarry operator has an interest).
- The proposed area for mineral extraction is currently overgrown and shows no signs of having been worked previously.
- Between the site and an existing restored area of agricultural grassland with water body (wetland), located towards the north-western corner of the existing quarry, is a previously worked area with sand and top-soil stockpiles (i.e. "area under restoration" as identified on drawing A052/00023 approved as part of set of plans accompanying 15/01768/APP).
- Access to the site is from the C3E road to the north using an approx. 1.1km long, private access track. The site entrance to the quarry is located in the north eastern corner of the quarry with an "existing agricultural laydown" area (to be retained) also located near the site entrance.
- The surrounding land is predominantly agricultural, with Auchtertyre farmhouse and associated farm buildings located approx. 350m to the south of the quarry. The residential property, Burnside is located adjacent to, and towards the northern end of, the access track
- The site is not located with any landscape, cultural or natural heritage designations at a national or local level (the latter identified in the MLDP 2020).

HISTORY

4 March 2021 - Screening Opinion adopted for this current application where, after taking account of the characteristics and location of the development and characteristics of the potential impact associated with varying the condition to enable mineral operations and site restoration to continue, the proposal is a Schedule 2 development but it would not be likely to result in significant environmental effects and therefore, it does not require to be subject to EIA procedures.

15/01768/APP – Planning permission for the continued operation of the quarry and restoration to agricultural land granted planning permission for a temporary period of 5 years by the Planning and Regulatory Services Committee on 25 February 2016 (per condition 1 of that consent, that condition subject to the requested variation under determination here).

15/00901/PAN - Proposal of Application Notice (PAN) to continue operations of sand and gravel quarry at Auchtertyre Quarry Elgin Moray - response (5 June 2015) identifies requirements for consultation with Heldon Community Council and holding of public consultation event at Cloddach Quarry site offices. Following consideration of this PAN, by the Council's Planning & Regulatory Services Committee on 11 August 2015, there were no provisional views/relevant issues which the Committee wished to raise about the development (paragraph 12 of Minute refers).

02/01957/FUL - Vary (not comply with) condition 2 of consent 94/00487/FUL to allow quarrying to continue until 01/01/2013 - granted 20 December 2002 with conditions of earlier permission re-applied and permission granted for a limited period expiring on 1 January 2013.

94/00487/FUL - Extension of previous approval to continue extraction of sand and gravel - granted 17 October 1997 (includes condition 2 which confirmed the permission for the extraction of sand and gravel would expire 5 years from the date of the permission).

MP/494/84 - Extend existing working to extract sand and gravel at Auchtertyre Quarry - approved 26 October 1984.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.
- Advertised as a development of a Class specified in Schedule 3 of the Development Management Regulations 2013.

CONSULTATIONS

Transportation Manager - No objection subject to previously approved Junction Maintenance Scheme (per condition 5 of previous consent) being complied with.

Environmental Protection/Moray Access Manager - No objection.

Environmental Health - No objection subject to informative requiring the development to be suitably controlled to ensure noise and dust emissions do not give rise to a statutory nuisance in terms of the Environmental Protection Act 1990.

Environmental Health, Contaminated Land - No objection.

NatureScot - No comments made; confirms advisory role on protected species is now fulfilled through provision of standing advice available on NatureScot website.

HSE - No response received, but noted that there was no objection to original application.

Heldon Community Council - No response at time of writing report.

SEPA – No objections subject to previous condition Site Specific Restoration Plan being re-applied. Condition requiring a Site Specific Management Plan is not required by SEPA as it is covered by SEPA's regulatory advice but support the Planning Authority re-applying this.

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).

Issue: Impact of proposal on flora and fauna.

Comments (PO): Subject to previously agreed management plans secured under conditions applied to planning permission 15/01768/APP being re-applied, the proposal is not considered to result in a significant adverse impact on flora and fauna that would warrant refusal of this application to extend the operating life of the quarry. It is noted NatureScot raised no objections to the application.

OBSERVATIONS

Legislative Matters

Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended allows applicants to apply to develop land without compliance with conditions previous attached to a planning consent. In determining such an application, the Council, as Planning Authority can only consider the conditions subject to which planning permission should be granted and may:

- grant permission unconditionally (i.e. remove the conditions attached to the planning consent);
- grant permission conditionally with differing conditions; or
- refuse the application (i.e. keep the conditions attached to the planning consent).

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 as follows:

Background

When application 15/01768/APP was applied for, Auchtertyre Quarry lay dormant i.e. was not operational and all previous planning permissions for sand and gravel extraction at this quarry site had expired. That consent sought to continue operations to complete the extraction of mineral reserves previously consented but not worked out within the previously approved quarry area, and to allow for site restoration of the site to agricultural grassland thereafter.

15/01768/APP permitted extraction for a further period of 5 years, expiring on 28 February 2021. The supporting statement provided with the application notes that extraction was not progressed under that consent due to the condition of a bridge on the private access road to the quarry. This bridge was replaced in winter 2020, and is now adequate to serve the quarry. A variation to condition 1 of 15/01768/APP is now sought, to permit further extraction for a period of 5 years.

Relationship to Minerals Policy (DP10)

Auchtertyre Quarry is identified as a safeguarded mineral reserve in terms of the Moray Local Development Plan 2020 for sand and gravel. This application will allow remaining reserves to be extracted and thereafter, facilitate restoration of the quarry. The proposal is considered to comply with policy DP10 given its support in principle to proposals to re-open a dormant quarry, which is the case here. As noted, this proposal seeks to continue to work within the realms of a previously approved quarry area, and to extract mineral reserves to previously agreed levels albeit within a different time period in light of delays to implementing the most recent consent. This proposal does not involve the physical expansion of the quarry area beyond that consented historically.

From policy DP10, all mineral developments are required to avoid or mitigate satisfactorily their impact upon a number of issues. Following consideration and ensuring all other conditions originally applied to application 15/01768/APP remain in force, consultees have not objected to the development as having unacceptable or significant adverse environmental effects including disturbance and disruption impacts arising from previous on-site extraction activities, or in relation to noise, pollution of land or water, transport and ecological interests, etc. As defined, this current site was included previously in earlier applications proposing extraction over a larger quarry area, to which there were no objections in terms of any identified adverse effects upon the natural and built environment including landscape and visual impacts, or upon the surrounding community, or in terms of cumulative effects. The arrangements for site restoration and extractive waste management are also considered acceptable (see below).

In light of the above considerations, where no unacceptable or significant adverse effects are identified, and subject to the development continuing to operate in a similar manner as before, this proposal to vary condition 1 to enable quarry operations at Auchtertyre to continue for a further 5 years is acceptable and would comply with policy DP10.

Visual Impact (DP10 and DP1)

As noted above, there were previously no concerns with the quarry in terms of its

landscape and visual impact. The quarry is not a readily noticeable feature in the surrounding area (in particular from public roads), whilst its excavation depth is small in comparison with other quarries. As extraction progresses the land, previously worked areas, as well as that proposed for further extraction will be reinstated to agricultural use, which would be in keeping with the prevailing land use in the wider area. Accordingly there is no conflict with policies DP1 and DP10 in respect of landscape and visual impacts.

Impact on the Environment (DP10 and DP1)

The site is not designated in terms of landscape, cultural or natural heritage value. The past operation of the quarry has not given rise to any specific environmental issues. Condition 3 of 15/01768/APP requires the submission of a Site Specific Management Plan, to identify and address all environmental sensitivities, pollution prevention and mitigation measures to avoid or minimise environmental impacts. This reflects the requirements of Scottish Planning Policy (SPP), ensuring that the development complies with current standards in terms of acceptable operating practices and environmental management. As condition 3 will remain in force, the proposal would comply with policies DP10 and DP1 with regards to environmental impact.

The Extractive Waste Management (Scotland) Regulations 2010

All extractive waste operations and operators are required to comply with the Extractive Waste Management (Scotland) Regulations 2010, which requires preparation of an Extractive Waste Management Plan but this can be waived if the planning authority are satisfied that the extractive waste associated with a minerals development can be managed without endangering human health and without using processes or methods which harm the environment. In January 2012 the Council granted Auchtertyre Quarry a waiver to the Regulations on the grounds that no material on site constituted extractive waste for the purposes of the Regulations.

As part of application 15/01768/APP, the applicant provided a review of operations to support the case that a waiver should again be granted for the proposed operations. That review confirmed that soils would be appropriately managed by existing arrangements, in particular the process of removing and storing/spreading soil on previously quarried land. Only worked sand and gravels would be dispatched from the site and with no material processed on the site there are no other (residue) materials present or produced that would constitute extractive waste. That application considered that the proposal would not impact on peat or polluted soils. On that basis a waiver was granted. Given there is no change to the approved development works (other than the time period for which they would be implemented) and there has been no change to the Regulations since the original/most recent planning consent (15/01768/APP), this waiver remains valid under the Regulations at this time.

Impact on Birds (EP1)

Application 15/01768/APP noted that Sand Martins are known to nest on the site during the bird breeding season. Sand Martins are protected under the Wildlife and Countryside Act and it is an offence to disturb or destroy their nests while birds are present. NatureScot (then known as SNH) previously advised that nests are rarely re-used and can be destroyed outwith the breeding season. Advice was also given by NatureScot on the use of sacrificial faces to be set aside for breeding birds, or covering and maintaining worked land to prevent birds from nesting. This advice was appended to the decision as an informative note and it is recommended it be reapplied. The site operator is already aware of the presence of the birds and will take steps to manage them on site (and from

the indicative restoration plans approved as part of 15/01768/APP, provision is made to retain a former working face as a habitat for Sand Martins in the south western corner of the already worked quarry area). In light of the above considerations, the proposal is considered to comply with policy EP1.

Restoration (DP10)

Policy DP10 requires restoration to be undertaken at the earliest stage and designed to a high standard, and if the operator cannot demonstrate that the programme for restoration is sufficient, a financial guarantee may be sought.

The existing restoration arrangements and conditions in respect of this will remain in force. This arrangement continues the restoration principles employed during earlier stages of working the quarry, and once fully excavated, restoration of the quarry will include re-profiling the ground and redistributing stockpiled (sub- and top- soil) materials over the worked site area as part of the arrangements to return the land to agricultural grassland. The water feature (wetland) in the north-west corner of the quarry area will be retained. In light of this, the proposal would comply with the requirements of policy DP10.

Policy DP10 in certain circumstances requires a financial guarantee/bond to ensure restoration can be undertaken should the operator fail to do so (for whatever reason). As part of the previous permissions, the requirements for site restoration after mineral extraction did not include nor require provision of a bond or similar financial arrangement to facilitate restoration of the site. The agent applicant/quarry operator is already signed up to an industry-based Minerals Products Association Guarantee Fund, the provisions of which are to be adopted for this site. Sand and gravel (and other mineral) workings are covered by the Fund which incorporates a commitment to restoration and gives a financial guarantee to planning authorities against a restoration default: a claim can be made where an operator is unable to meet restoration obligations arising from a planning condition as a result of financial failure and after every enforcement power available to the planning authority has been used. This arrangement would address the issue of financial guarantee as referred to in policy DP10.

Pollution (EP14)

The nature of the development is such that works on site will create noise and dust, although such effects may be limited in duration given that the quarry is likely to operate on an intermittent rather than full-time basis. The Environmental Health Manager has not objected to any potential noise, dust or other pollution effects arising from the development. The response notes there has been no complaints since the granting of 15/01768/APP, though it is noted that operations did not proceed. However, application 15/01768/APP did not raise any issues of concerns regarding these matters.

An informative applied to application 15/01768/APP is recommended to be applied to any new consent to 'remind' the developer that they must ensure that the development does not give rise to noise or dust pollution that would constitute a statutory nuisance (and in such circumstances, the Environmental Health Authority would deal with any breaches). The arrangements to manage and mitigate potential pollution effects arising from noise and dust can also be addressed within the required management plan under condition 3, as well as limitations on the consent under condition 2 (notably on operation hours). On this basis and in light of the previous permissions granted for the quarry as a whole, wherein there were no objections in terms of adverse pollution effects, the development of this remaining (smaller) area within the previously approved quarry area is also considered unlikely to create significant pollution in terms of noise and dust, etc. and the

proposal would therefore comply with policy EP14.

Amenity (DP1)

The quarry will likely continue to operate on an occasional rather than continuous basis. The quarry site itself is well separated from any existing housing. The house, Burnside is located immediately adjacent to the access track but it is approx. 790m from the entrance to the quarry itself, and from the previous applications, the effects of transporting up to 60,000 tonnes per annum along the existing access track past this property was not a source of objection. The buildings at Auchtertyre Farm are approx. 350m to the south of the quarry and the surrounding (intervening) land is worked as part of the agricultural holding.

The quarry has operated successfully alongside the established surrounding development and mindful of those earlier permissions, there are no objections to the working of the proposed remaining area. This current proposal is also considered unlikely to have any undue impact on the amenity of any neighbouring houses or to the surrounding area, and as such it would comply with policy DP1.

Access (PP3)

The site is accessed from the north via an existing private track with the entrance to the quarry located more than 1 km from the public road. The track also serves a private house and is used by the farm to the south albeit not as a principal access. The Transportation Manager has not objected to the proposed variation to continue extraction for a further 5 years but has requested that the previously agreed Junction Maintenance Scheme as part of condition 5 of 15/01768/APP remains in place. As this information has already been agreed, the wording of condition 5 will be updated to reflect this and ensure development progresses in accordance with this. On this basis, the proposed variation to continue operations for a further 5 years complies with policy PP3 with regards to access.

Conclusion and Recommendation

This application seeks to extend the consent period of extraction and restoration of this quarry that is a safeguarded mineral reserve in the MLDP 2020. The development will allow extraction of the remaining reserves and restoration of the site, the latter using soil materials extracted from the site. The principle of the development for sand and gravel extraction at this quarry has previously been considered to be acceptable. Subject to conditions 2 to 4 previously applied being reiterated (condition 5 varied per considerations under Access), this proposal to continue operations, to excavate the remaining available resource within the confines of the existing quarry to the previously agreed depth of extraction, is considered to accord with planning policy and can be achieved without undue environmental effects. The site will be returned to agricultural use thereafter. The proposal would also satisfy policy DP1 in terms of the development progressing yet safeguarding the built and natural environment.

In accordance with the applicant's agent's request to vary the condition, it is recommended that planning permission be granted for a period of five years as applied for, to enable existing reserves to be extracted and for site restoration thereafter as previously agreed.

REASON(S) FOR DECISION

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

The proposed variation to condition 1 to extend the extraction period of the quarry is considered suitable in terms of the provisions of the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

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Development Management & Building Standards Manager**

APPENDIX

POLICY

Moray Local Development Plan 2020

PP3 INFRASTRUCTURE & SERVICES

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

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

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

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

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

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

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

(ii) Transportation

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

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

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

(iii) Water environment, pollution, contamination

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

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

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

DP10 MINERALS

a) Safeguarding Mineral Reserves

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

b) Mineral Operations

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/sites.
- Re-opening of a dormant quarry.
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

Proposals for borrow pits will be supported, subject to compliance with other relevant policies, to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond.

Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased. Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

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.

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.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
18 MAY 2021**

**SUBJECT: 21/00286/PAN PROPOSED SCHOOL SITE AT GLASSGREEN,
ELGIN**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 2 March 2021 on behalf of Springfield Properties PLC.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that:

- (i) in noting the terms of this report, the Committee advise upon any provisional views/relevant issues that Members of this Committee (or any other Member(s) of the Council) wish to raise about the proposed development so that these matters can be recorded and thereafter fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

3. BACKGROUND

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-application stage which they would wish to see taken into account within any formal application for planning permission.

- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to applicant (paragraph 4 of the Minute refers).
- 3.3 This report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 This PAN relates to a proposed school and associated infrastructure. No further details have been provided at this stage. A plan (**Appendix 1**) is appended showing the location and extent of the site. The site extends to approximately 2.98 ha. The site is within the Elgin South Masterplan area (Elgin Long 2) and comprises a portion of land where no development has been approved to date. A school is proposed in the western part of the masterplan area but this proposal is in a slightly differently location. The new site is a larger site which meets the revised size requirements of the Council's Education Department. The Elgin South Masterplan is currently going through a process of revision that include changes to the current layout and release of land. The masterplan will be reported to committee in due course. The identified site is in the middle of the portion of the masterplan area between the A941 and Birnie Road. Houses and other facilities have been approved to the north (16/01244/APP) as part of the Elgin South expansion. Members will recall that a PAN (20/01770/PAN) relating to a housing development on a 16ha area of land to the west and south of this site was reported to the last committee meeting of this committee on 23 March 2021 (para 11 of the draft minute refers).
- 3.5 There are no other landscape, cultural or natural heritage designations affecting the site.
- 3.6 Planning permission is required for this proposal. The application site exceeds 2ha therefore the proposal would be a major application relative to the current Hierarchy Regulations and the proposal would comprise a major development for planning purposes. The proposal will be subject to PAN and pre-application consultation procedures with the local community. The applicant has been advised of the Council's pre-application advice service to assist in identifying key issues and information that would be expected to accompany any formal application.
- 3.7 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community are sufficient. The applicant proposes to consult with Elgin Community Council. In this case

the applicant's agent has been advised that no additional parties require to be notified with a copy of the PAN.

- 3.8 The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 have temporarily suspended the need to hold a public event in relation to PANs from 24 April 2020 provided that the PAN was submitted before the end of the emergency period and that any formal planning application following on from the PAN is lodged within 6 months of the end of the emergency period. In line with the new regulations the agent has confirmed that a virtual public event will be held on their website on dates to be confirmed. This will be advertised locally prior to opening and the community council made aware of the arrangements. In order to be valid a major application must be supported by a pre-application consultation report setting out the steps taken to consult with the local community, details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Identifying key issues at an early stage to assist with front loading major planning applications is a vital aspect of supporting and facilitating the Council's priority for economic development in Moray.

(b) Policy and Legal

Scottish Government guidance on the role of councillors in pre-application procedures affords elected members the opportunity to offer general provisional views on forthcoming developments which are the subject of a PAN where the details of the development have yet to be finalised.

(c) Financial implications

None

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Development Management and Building Standards Manager, the Equal

Opportunities Officer, the Strategic Planning & Delivery Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

Members of Moray Council who are not on the Planning & Regulatory Services Committee have also been consulted and any views received on the proposal will be made known at the meeting

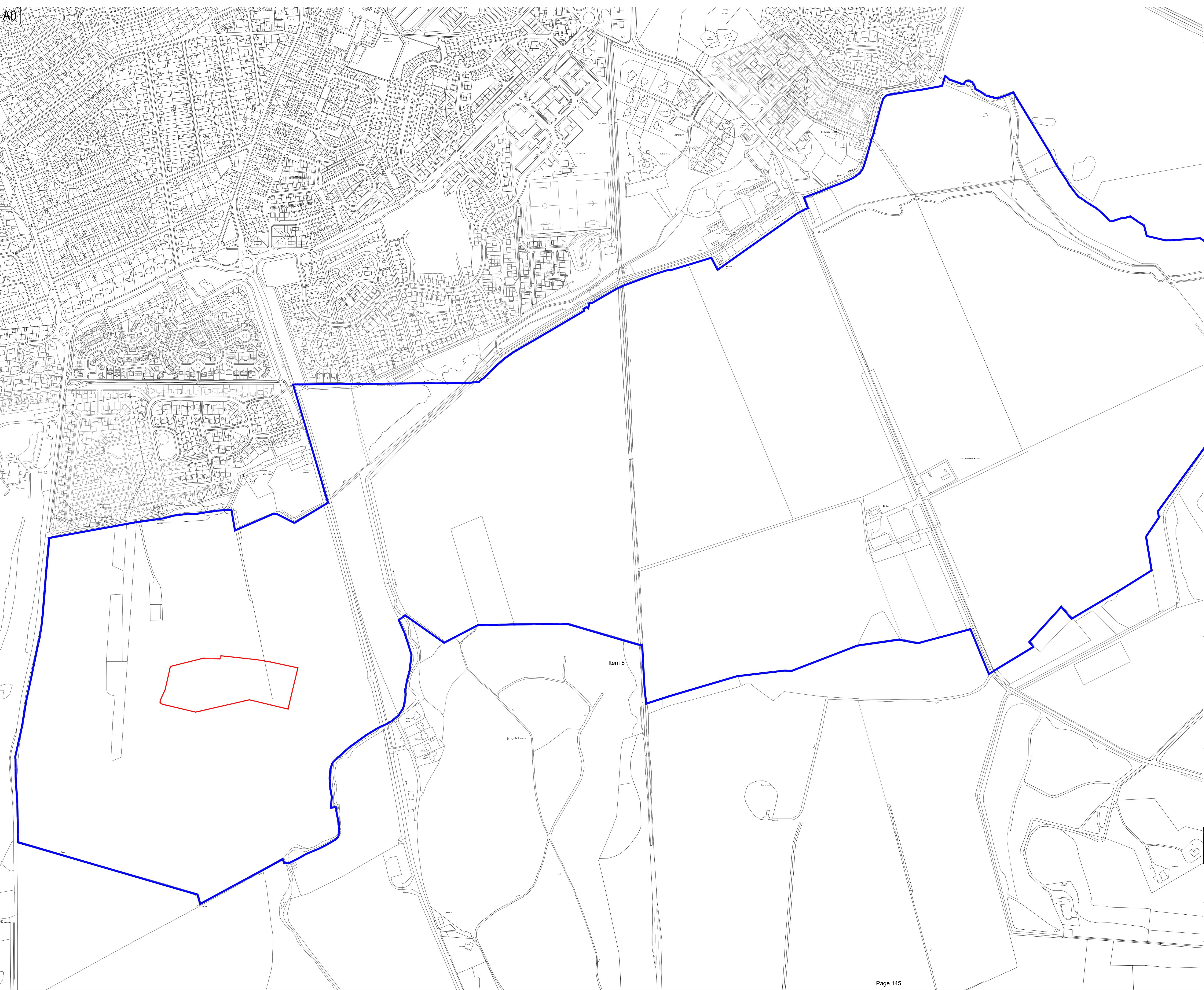
5. CONCLUSION

- 5.1 The Council has received a PAN intimating that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for residential development. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

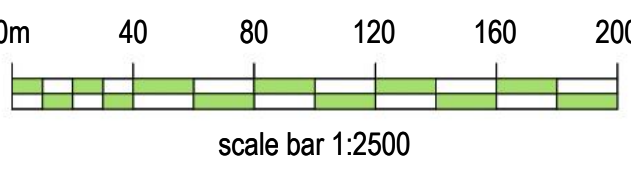
Author of Report: Lisa MacDonald

Background Papers:

Ref: 20/01770/PAN



Important notes for clients / contractors
No works are to commence on site until all relevant approvals have been obtained. Any deviations to the approved plans have to be reported to this office. Contractors to check all dimensions on site prior to commencement of work. Given dimensions only to be used. "DO NOT SCALE". The copyright of this drawing and design remain the sole property of Springfield Properties Plc and must not under any circumstance be reproduced in any way without express written consent.



- Legend
- Elgin South Boundary
 - School Site Boundary

Rev	Date	Remarks	By	Ch.
Revisions				



Springfield Properties Plc	
Elgin Office Alexander Fleming House, 8 Southfield Drive, Elgin, Moray, IV30 6GR	Larbert Office Springfield House, 3 Central Park Avenue, Larbert, FK5 4RX
Tel: 01343 552 550 Fax: 01343 551 776 Email: info@springfield.co.uk	Tel: 01324 555 536 Fax: 01324 574 890 Email: larbert@springfield.co.uk

Elgin South

Project EL44 School Site	
Drawing Location Plan	
Scale 1:2500 @ A0	Date Feb 21
Drawn by CS	Checked by RG
Drawing no. EL44_SS_LP_01	Rev



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
18 MAY 2021**

**SUBJECT: 21/00308/PAN – PROPOSED ERECTION OF A UNIT FOR USE
CLASSES 4 (BUSINESS) 5 (GENERAL INDUSTRIAL) AND 6
(STORAGE AND DISTRIBUTION) WITH MAXIMUM FLOOR AREA
OF 15,000 SQM, ASSOCIATED LANDSCAPING, CAR PARKING
AND ANCILLARY WORK AT FORRES ENTERPRISE PARK,
FORRES**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 8 March 2021 on behalf of Highlands and Islands Enterprise.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that:

- (i) in noting the terms of this report, the Committee advise upon any provisional views/relevant issues that Members of this Committee (or any other Member(s) of the Council) wish to raise about the proposed development so that these matters can be recorded and thereafter fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

3. **BACKGROUND**

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-application stage which they would wish to see taken into account within any formal application for planning permission.
- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to applicant (paragraph 4 of the Minute refers).
- 3.3 This current report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 As described, this PAN relates to a proposal for the development of a commercial unit up to 15,000 sq m (covering Use Classes 4, 5 and 6) on land in the south of the park. No further details of the proposed unit have been provided at this stage. A plan is appended showing the location and extent of the site (**Appendix 1**). The site extends to approximately 4.55ha. and is within the BP1 designation (Enterprise Park) of the Forres Settlement Statement in the Moray Local Development Plan 2020 (MLDP). The site boundary follows the C27E road in the southern portion of the park to the north/west (C27E is the road leading from the A96 through the park towards Cathay Nursing Home); further vacant land in the park lies to the north east; and landscaping and the unclassified Scotsburn to C27E road to the south east.
- 3.5 Planning permission is required for this proposal. The application site exceeds 2ha and floor area exceeds 10,000 sq m, therefore the proposal would be a major application relative to the current Hierarchy Regulations and the proposal would comprise a major development for planning purposes. The proposal will be subject to PAN and pre-application consultation procedures with the local community. The applicant has been advised of the Council's pre-application advice service to assist in identifying key issues and information that would be expected to accompany any formal application.
- 3.6 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community outlined in the PAN are suitable. The applicant has confirmed they propose to consult Forres and Finderne Community Councils, local ward members, hold an online public consultation event and publicise this with a notice in the local press.

- 3.7 The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 have temporarily suspended the need to hold a public event in relation to PANs from 24 April 2020 provided that the PAN was submitted before the end of the emergency period and that any formal planning application following on from the PAN is lodged within 6 months of the end of the emergency period. In line with the new regulations the agent has confirmed that a virtual public event will be held in due course. This will be advertised locally prior to opening and the community councils made aware of the arrangements. In order to be valid a major application must be supported by a pre-application consultation report setting out the steps taken to consult with the local community, details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

4. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Identifying key issues at an early stage to assist with front loading major planning applications is a vital aspect of supporting and facilitating the Council's priority for economic development in Moray.

(b) **Policy and Legal**

Scottish Government guidance on the role of councillors in pre-application procedures affords elected members the opportunity to offer general provisional views on forthcoming developments which are the subject of a PAN where the details of the development have yet to be finalised.

(c) **Financial implications**

None

(d) **Risk Implications**

None.

(e) **Staffing Implications**

None.

(f) **Property**

None.

(g) **Equalities/Socio Economic Impact**

None.

(h) **Consultations**

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Development Management and Building Standards Manager, the Equal Opportunities Officer, the Strategic Planning and Development Manager,

and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

Members of Moray Council who are not on the Planning & Regulatory Services Committee have also been consulted and any views received on the proposal will be made known at the meeting.

5. CONCLUSION

- 5.1 The Council has received a PAN intimating that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for the erection of a unit for Use Classes 4 (Business), 5 (General Industrial) and 6 (Storage and Distribution) with maximum floor area of 15,000 sqm, associated landscaping car parking and ancillary works. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

Author of Report:

Andrew Miller, Planning Officer

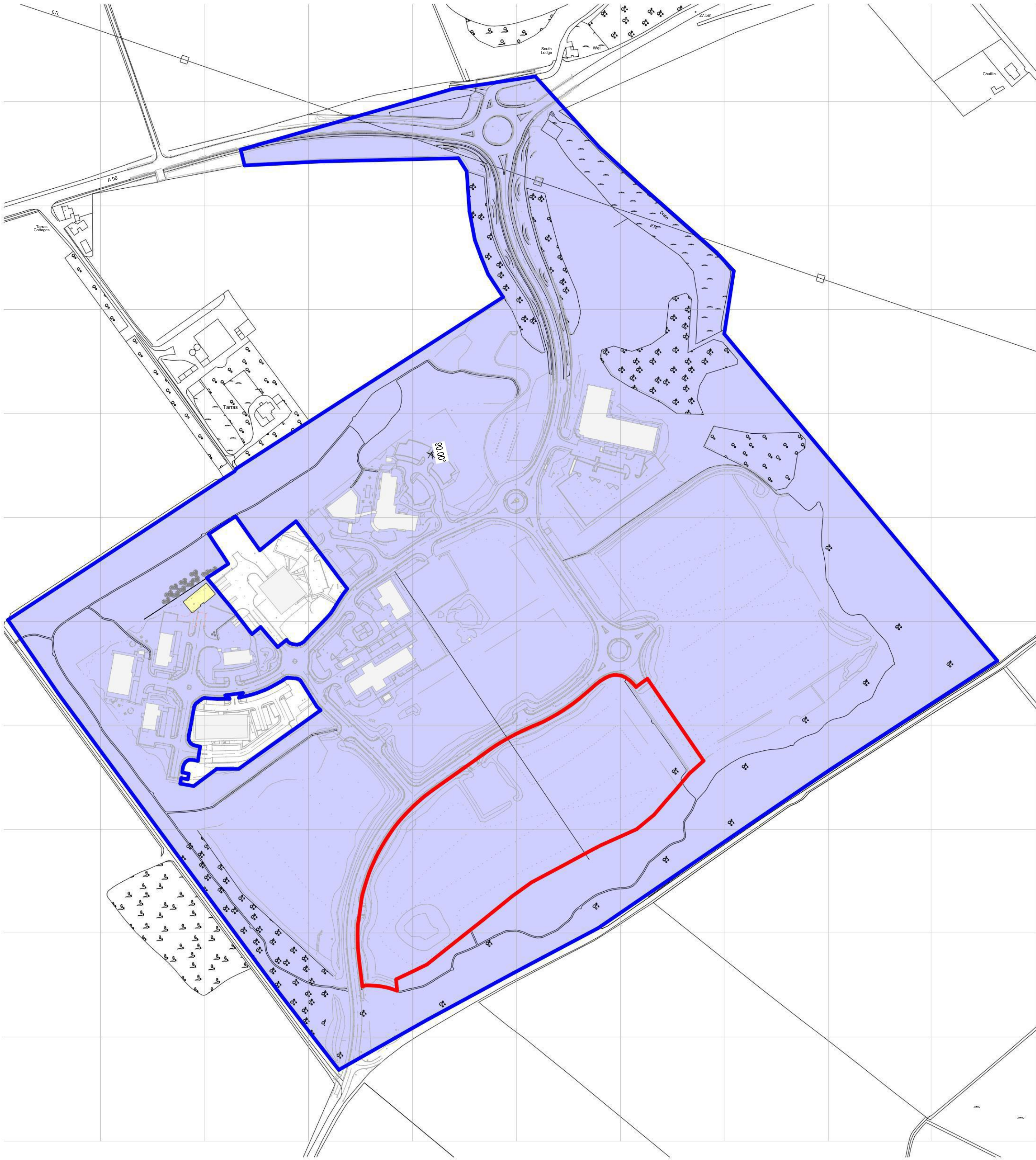
Background Papers:

Ref:

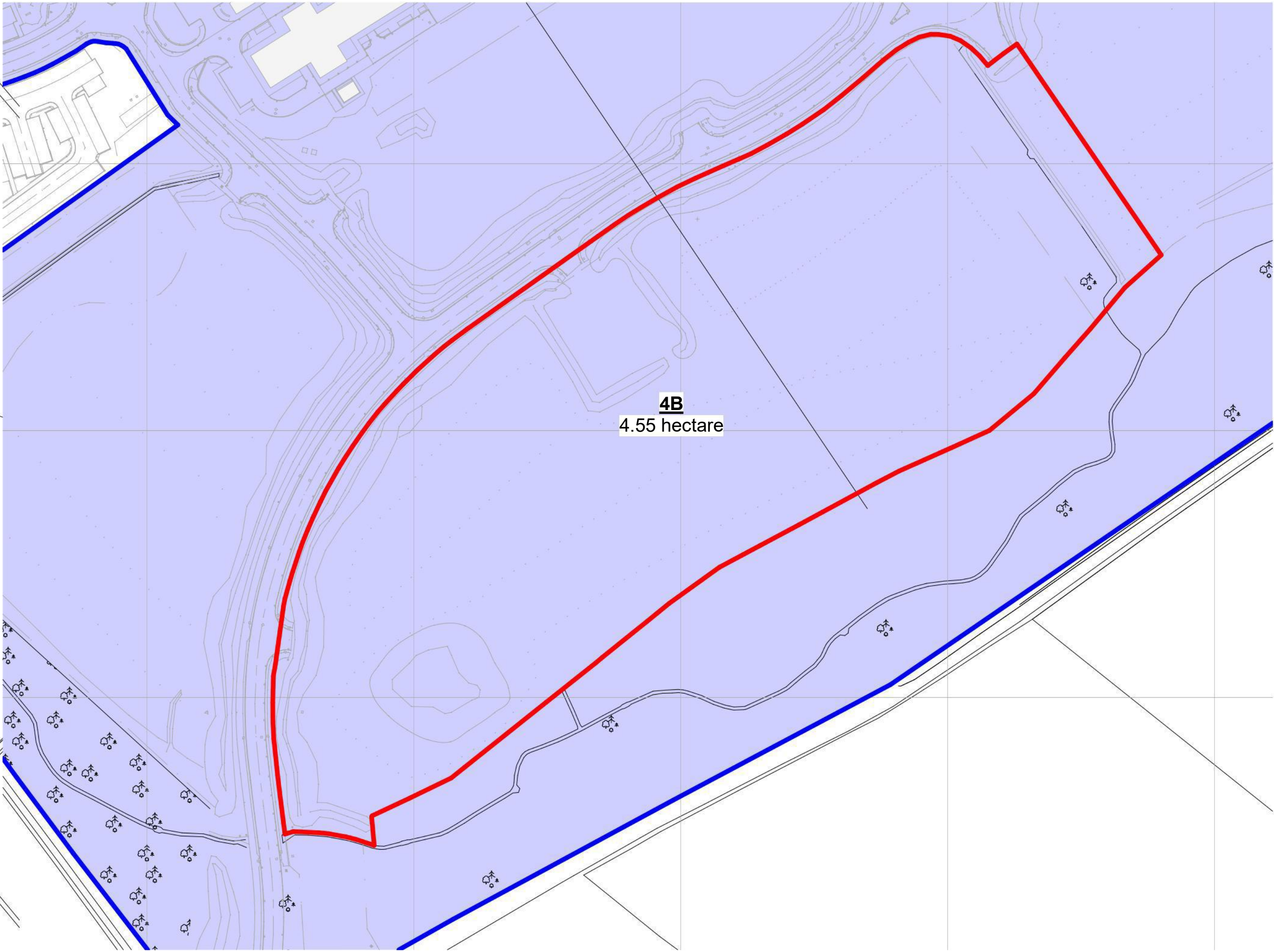
20/01762/PAN

All levels and dimensions to be checked on site prior to construction/fabrication; report discrepancies immediately. Do not scale dimensions from this drawing. This drawing is copyright protected.

Rev	Description	Date	Dr by	App by
P1	Boundary revised	05.03.21	SG	RK



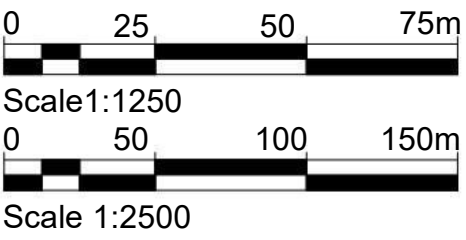
1. Location Plan - Enterprise Park
1 : 2500



2. Location Plan - Plot 4B
1 : 1250

Application site boundary

Land Owned by the Applicant



SCALE	DATE	DRAWN	CHECKED
As indicated @A1	17/12/20	SG	RK

CLIENT
HIE

PROJECT
**The Enterprise Park Forres,
Plot 4B**

DRAWING
Location Plan

Threesixty
Architecture

MORAY HOUSE
16-18 BANK STREET
INVERNESS
IV1 1QY

t 01463 729929
www.360architecture.com

DRAWING No.
190881A-360-4B-ZZ-DR-A-0003

REVISION
P1

SUITABILITY
PLANNING



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
18 MAY 2021**

**SUBJECT: 21/00318/PAN SOUTH WEST EXTENSION OF COBLE AND
SAND QUARRY COMPRISING CIRCA 15 HECTARES AT LOSSIE
FOREST QUARRY**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 9 March on behalf of Tennants (Elgin) Limited.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that:

- (i) in noting the terms of this report, the Committee advise upon any provisional views/relevant issues that Members of this Committee (or any other Member(s) of the Council) wish to raise about the proposed development so that these matters can be recorded and thereafter fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

3. BACKGROUND

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-

application stage which they would wish to see taken into account within any formal application for planning permission.

- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to applicant (paragraph 4 of the Minute refers).
- 3.3 This report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 This PAN relates to a proposal to extend an existing quarry for the extraction of cobbles and sand. Members will recall that a PAN (21/00186/PAN) for the same proposal was reported to the last meeting of this committee on 23 March (para 8 of the draft minute refers). This proposal is identical except that it includes the full extent of the access track to the west of the quarry works. A plan (**Appendix 1**) is appended showing the location and extent of the site including the amended access. The proposed extension is an area of approximately 15ha within Lossie Forest. The extension is to the south of the existing quarry. The current working area extends to 10.4 ha while a further 9.95ha has been restored. There is an existing access from the west. This joins the public road south of Arthur's Bridge. The site is otherwise surrounded by trees.
- 3.5 There are war time installations along the coast which are scheduled ancient monuments. The closest is approximately 375m to the north of the application site. The site is not covered by any natural heritage designation but NatureScot have identified potential connectivity between the site and the Spey Bay Special Area of Conservation (SAC) and Spey Bay Site of Special Scientific Interest (SSSI). The site is on the National Forest Inventory as conifer woodland. A portion of the northern part of the application is covered by the Lossiemouth to Portgordon Special Landscape Area as identified in the Moray Local Development Plan 2020.
- 3.6 Planning permission is required for this proposal. The proposal has been identified as a Schedule 1 development in relation to the Environmental Impact Assessment (Scotland) Regulations 2017 as it represents an extension to an existing site and the application site exceeds 2ha therefore the proposal would be a major application relative to the current Hierarchy Regulations and would comprise a major development for planning purposes. The application will also be an EIA application. The proposal will be subject to PAN and pre-application consultation procedures with the local community. The applicant has been advised of the Council's pre-application advice

service to assist in identifying key issues and information that would be expected to accompany any formal application.

- 3.7 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community are sufficient. The applicant proposes to consult with Innes Community Council. In this case the applicant's agent has been advised that no additional parties require to be notified with a copy of the PAN.
- 3.8 The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 have temporarily suspended the need to hold a public event in relation to PANs from 24 April 2020 provided that the PAN was submitted before the end of the emergency period and that any formal planning application following on from the PAN is lodged within 6 months of the end of the emergency period. There is no statutorily specified alternative to a public event during the emergency period but it is anticipated that prospective applicants propose reasonable alternatives which must include a minimum seven day period where information can be inspected and the public can make comments and ask questions to which they can expect to receive a response. The proposed public engagement went ahead at the end of March as previously planned in relation to the original version of the PAN (21/00186/PAN) however the revision was clear at this time and only information in relation to the revised PAN was made available. The public engagement included a virtual public event on the company's website and a virtual video call. These measures were in accordance with the regulations during the emergency period. In order to be valid a major application must be supported by a pre-application consultation report setting out the steps taken to consult with the local community, details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Identifying key issues at an early stage to assist with front loading major planning applications is a vital aspect of supporting and facilitating the Council's priority for economic development in Moray.

(b) Policy and Legal

Scottish Government guidance on the role of councillors in pre-application procedures affords elected members the opportunity to offer general provisional views on forthcoming developments which are the subject of a PAN where the details of the development have yet to be finalised.

(c) Financial implications

None

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Development Management and Building Standards Manager, the Equal Opportunities Officer, the Strategic Planning & Delivery Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

Members of Moray Council who are not on the Planning & Regulatory Services Committee have also been consulted and any views received on the proposal will be made known at the meeting

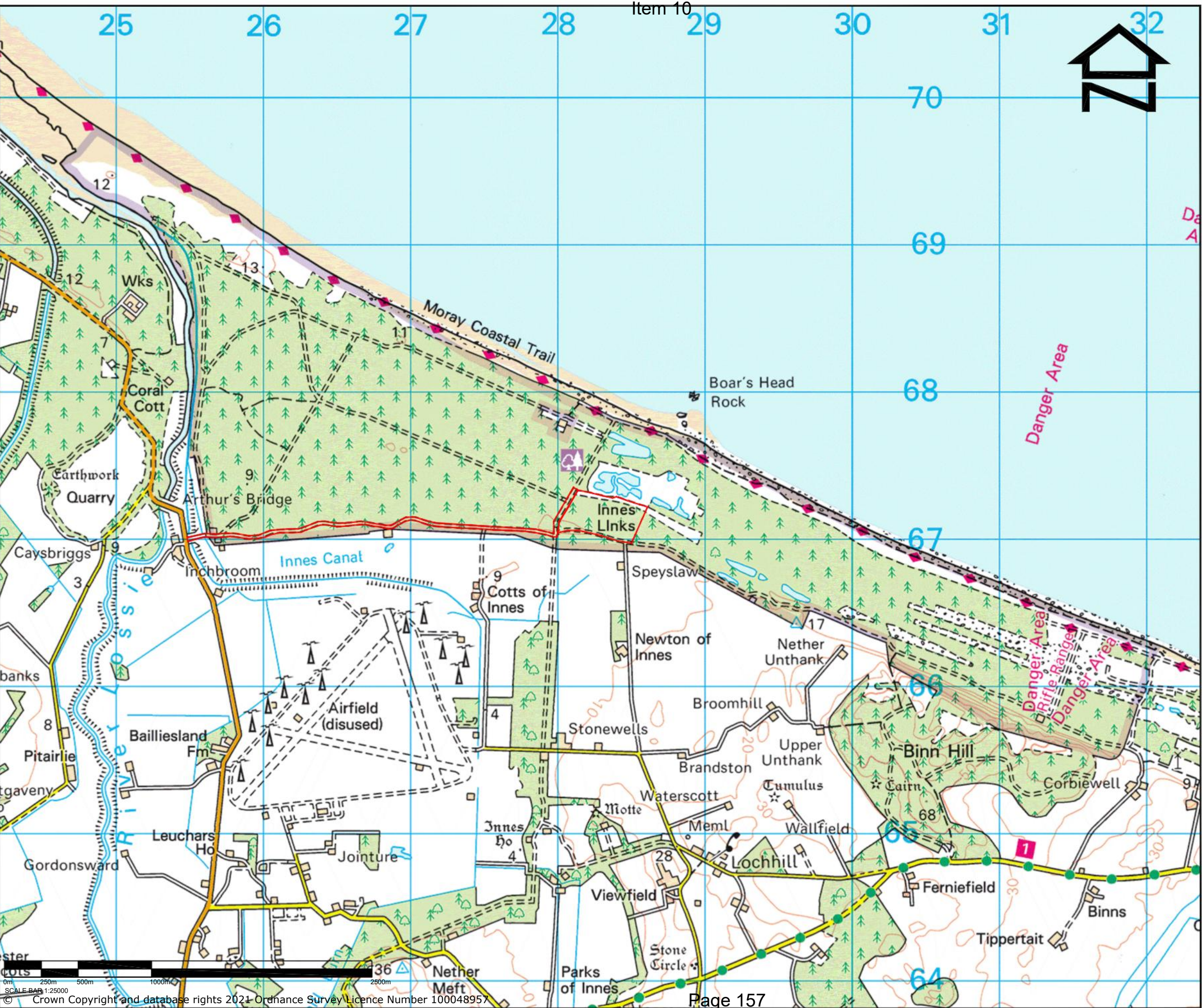
5. CONCLUSION

- 5.1 The Council has received a PAN intimating that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for the extension of an existing quarry for the extraction of cobbles and sand. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

Author of Report: Lisa MacDonald

Background Papers:

Ref: 21/00318/PAN



NOTES

Site Boundary

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DATE	REVISION	No.
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**Johnson
Poole &
Bloomer**
Consultants
GEO-ENVIRONMENTAL & MINERALS

CLIENT

TENNANTS
NATURAL SCOTTISH STONE

PROJECT TITLE

LOSSIE FOREST QUARRY
PLANNING APPLICATION

DRAWING TITLE

SITE LOCATION
PLAN

DRAWN BY MG	APPROVED BY TL
SCALES 1:25000	ORIGINAL DRAWING SIZE A3
DATE MAR 2021	DRAWING No. UG613/F/01



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
18 MAY 2021**

SUBJECT: PROPOSALS FOR REGULATIONS ON LOCAL PLACE PLANS

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider the proposals for regulations on Local Place Plans (LPP) and to agree the proposed response in **Appendix 1** to be submitted to the Scottish Government.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee;
 - (i) note the proposals for regulations on Local Place Plans published by the Scottish Government; and
 - (ii) agree the response set out in Appendix 1 be submitted to the Scottish Government.

3. BACKGROUND

- 3.1 In summer 2019 the Planning (Scotland) Act 2019 was passed by the Scottish Parliament. Section 14 amends the Town and Country Planning (Scotland) Act 1997 to introduce a new right for communities to produce LPP for their places, with scope for these plans, or parts of them, to become a part of the Local Development Plan (LDP). The overall aim is to significantly enhance engagement in development planning by empowering communities to play a proactive role in shaping the future of their places by setting out their proposals for the use and development of land.

- 3.2 LPP can be prepared by a community body which is defined as either;
- a) A community controlled body within the definition given in section 19 of the Community Empowerment Act 2015; or
 - b) A community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973.
- 3.3 LPP may also identify land and buildings which the community considers to be of particular significance to the local area. Community bodies will have to have regard to both the National Planning Framework and the relevant LDP when preparing LPP.
- 3.4 The Act did not contain provisions for the content, preparation, submission and registration of LPP as these were considered more appropriately dealt with through secondary legislation.
- 3.5 The provisions of the 2019 Act are not yet in force and the timing of their commencement will be linked to the coming into force of the regulations following on this from consultation. The consultation paper sets out draft proposals to support implementation of the Act relating to LPP.
- 3.6 Responses to the consultation have been requested by 25 June 2021.

4. PROPOSALS

- 4.1 The following matters have been considered by the Scottish Government in preparing the draft;
- The policy objective to promote early engagement by communities in setting out a vision for the future development of the places they live.
 - LPP are community led but have the potential to be supported in their development and delivery by the public and third sectors.
 - The process for preparing LPP to be defined largely by the capacity and preferences of the communities themselves, rather than introducing a fixed procedure
- 4.2 The draft proposals set out the following steps for preparing LPP, recognising this may vary;

Stage	Activity
Getting the ball rolling	Community body and others recognise that a LPP may add value to the community, which may be prompted by an invitation from the planning authority.
Preparing the LPP	Drawing together the evidence and seeking views of the community on the key issues for the LPP, having regard to the NPF and the LDP.
Developing proposals	Identify what the key issues are to be contained in the LPP.
Sense checking the LPP	Engaging with stakeholders
Submitting the LPP	Finalise the LPP and additional material and submit to the planning authority

Registering and delivery	Planning authority validation and registering of the LPP which is taken account of when developing the LDP.
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- 4.3 The Act requires the LPP to have regard to “such other matters (if any) as are prescribed”. The proposals clarify that this should include the need to have regard to links between the LPP and relevant planning policies and to make links between spatial and community planning at a local level. LDP’s in future will be required to take account of any Local Outcome Improvement Plans (LOIPs) and it is proposed that LPP should also take account of any Locality Plans in place, as existing examples show that these can cover land use planning issues including affordable housing, active travel and community facilities.
- 4.4 In relation to the form and content of LPP, the Scottish Government propose that LPP should contain the following elements;
- A statement setting out the community’s proposals for the future development or use of land within the area covered by the LPP; and
 - A map of the area covered by the LPP, which must be annotated to provide the boundary.
 - Additional information to aide registration, including the journey to prepare the LPP and how the proposals in the LPP could be delivered, which could be submitted as additional information.
- 4.5 The Scottish Government is seeking views on whether the regulations should set out statutory requirements on community bodies to engage with their local communities in preparing the LPP, or if engagement options could be better explained in guidance instead.
- 4.6 Regulations will need to set out the requirements for submission of LPP, including;
- Steps which must be taken before submitting a LPP
 - How the views of councillors for the area to which the local place plan relates are to be taken into account in the preparation of the LPP; and
 - Information which must be submitted alongside a LPP.
- 4.7 The Scottish Government proposes to provide guidance with a “How to Guide” linking best practice examples of developing community led plans. The consultation paper proposes that the additional information to be submitted alongside the LPP should be sufficient to allow the planning authority to validate and register the Plan. This would include;
- Evidence that the body preparing the LPP is a Community Body
 - Evidence there has been compliance with the specific requirements to be set out in the regulations, including regard to NPF, LDP, Locality Plan; reasons for considering the LDP should be amended; evidence that the views of local ward councillors have been sought; evidence that the prescribed requirements on form and content have been complied with and evidence of compliance with community consultation requirements.
- 4.8 A validation framework for planning authorities to use will be considered by the Scottish Government. Planning authorities are required to maintain a

register of LPP. If the planning authority decide not to register the LPP, they must give their reasons to the community body.

- 4.9 Over a period of time, the register will contain LPP which have been submitted for consideration in the next LDP. As well as LPP which have been taken account of or partially taken account of. Views are invited on the merits of being able to remove LPP after a particular point in the LDP preparation cycle.
- 4.10 The proposed Council response to the questions set by the Scottish Government are included in **Appendix 1**.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The LDP is a vital aspect of supporting and facilitating the Council's priority for economic growth. The Plan also aims to deliver other key objectives including the delivery of affordable housing and conservation and enhancement of our high quality natural and historic environment.

LPP can help articulate community aspirations for the use of land and buildings to support the LOIP and LDP.

(b) Policy and Legal

Preparation of the LDP and the requirements regarding LPP are statutory responsibilities in the Council's role as Planning Authority.

(c) Financial implications

None at this stage.

(d) Risk Implications

None at this stage.

(e) Staffing Implications

The requirements for LPP will have resource implications for services including Strategic Planning and Development and the Community Support Unit, both in terms of regulatory processes such as validation and maintaining a register, but also in supporting communities to develop LPP. Some communities will be better resourced to prepare LPP than others and further consideration will need to be given to how to resource and support communities in this process.

The full staffing implications of the new Planning (Scotland) Act 2019 will not be known until all regulations and guidance has been published and when these are reported to this Committee the staffing implications for services will be fully assessed.

(f) Property

None at this stage.

(g) Equalities/Socio Economic Impact

None at this stage.

(h) Consultations

Consultation has taken place with the Depute Chief Executive Economy, Environment and Finance, the Head of Economic Growth and Development, the Head of Education Resources and Communities, the acting Community Support Manager, the Legal Services Manager, the Equal Opportunities Officer, Lissa Rowan (Committee Services Officer) and Paul Connor (Principal Accountant) and their comments incorporated into the report.

6. CONCLUSION

- 6.1 The Planning (Scotland) Act 2019 introduces a right for communities to produce LPP for their places with scope for parts of them to be integrated into the LDP.**
- 6.2 The Scottish Government has issued a consultation paper setting out proposals for the scope and content of LPP and seeking views on whether details should be included within regulations or guidance.**

Author of Report: Gary Templeton, Strategic Planning and Development Manager

Background Papers:

Ref:

Appendix 1- Scottish Government Consultation on Proposals for Local Place Plans

1. Do you agree with the proposal that community bodies should have regard to any Locality Plan that is in place for the area under consideration when preparing their Local Place Plan?

Response: Yes, it is important that LPP reflect priorities identified in any Locality Plan covering the area.

2. Do you consider that community bodies should have regard to other additional matters beyond the Locality Plan when preparing their Local Place Plan?

Response: Yes, community bodies should have regard to as many relevant activities and aspirations within the community including any LOIP approved or under preparation covering the area.

3. Do you agree with the proposal that a LPP should contain a statement setting out the community's proposals plus a map of the area setting out the LPP boundary?

Response: Yes. However, the statement should also set out the consultation and engagement steps and issues highlighted by the community during the process of preparing the LPP. The statement would also usefully set out how local elected members have been engaged and how the LPP "fits" with Locality Plan, LOIP, other matters as discussed in 2 above and how it "interacts" with the LDP.

4. Do you think a requirement for the community body to engage and seek the views of people to assist in the preparation of an LPP should be set out in law?

Response: Yes. As LPP have been introduced as part of the changes to the development planning process through the new Act, it is essential that a minimum legal requirement is set out on the steps and timescales to be met to ensure community aspirations feed into the LDP process. Without this being set out in law, the aspiration for early community involvement in development planning may not be achieved.

5. If a requirement to seek the views of people is put into law, what should any minimum requirement be?

Response: It is suggested that the National Standards for Engagement are applied, including a 12 week consultation period and some form of community workshop/ meeting, finding the balance between community resources and meaningful engagement and perhaps this is where the local authority and other organisations can support communities. It is important to set out the early engagement steps to ensure wide representation and participation from the outset, rather than consulting at a more formal draft LPP stage. It is also crucial that communities are made aware of the opportunity to prepare LPP.

6. Do you agree with the proposal that there should be a minimum statutory requirement on the community body to consult the community once a draft LPP has been prepared and before submitting an LPP?

Response: Yes, however, see response to question 5. It is vital that early, wide engagement is undertaken to inform a draft LPP and this step should be set out as a minimum requirement.

7. If a requirement to consult across the community on the content of a draft LPP is to be put into law, what should any minimum requirement be?

Response: Minimum requirement could perhaps follow a similar process as the LDP, with an early Evidence Report being collated through widespread early engagement within the community. The Evidence Report could be subject to consultation and then the draft LPP could be subject to consultation with the community then notified when the LPP is submitted to the planning authority.

8. Do you agree with the proposal that the community body should seek the views of ward councillors when preparing the LPP?

Response: Yes, local councillors have significant knowledge of local groups and issues within the community and can help to ensure as many people and local groups are involved and aware of the LPP as possible.

The views and role of the local members in preparing the LPP can be included in the supporting statement submitted to the planning authority.

9. Do you agree that, alongside the LPP itself, the community body should submit a statement on how it has complied with the legal requirements.

Response: Yes, this will help the validation process.

10. Do you agree the requirements planning authorities have to keep the register of local place plans should be aligned to the existing arrangements for registers.

Response: Yes, having an online register of LPP makes sense, maintained and updated by the planning authority.

11. Do you agree that the additional information provided by the community body alongside the LPP should be kept on the register of local place plans?

Response: As part of an open and transparent process, it is considered that the additional information should normally be made available, unless there is a commercially confidential reason for not making information available.

12. Please provide your views on the level and content of information to be placed on the register.

Response: As noted above the Plan, additional information and map of the area covered by the LPP should be placed on the register.

13. Do you agree with the proposal that a planning authority may remove an LPP from the register once it has been taken into account in the LDP, and must do so when requested by the community body that prepared it?

Response: Yes, the examples proposed are supported, where a LPP has been taken into account in the LDP or where the Community Body requests its removal.

14. Do you agree the requirements planning authorities have for making the map of local place plans available should be aligned to the existing arrangements for registers?

Response: Yes, it allows community bodies and other parties to see which LPP's have been lodged for their area.

15. Please provide us any views you have on the content of impact assessments

Response: No comments.

16. Do you have or can you direct us to any information that would assist in finalising these assessments.

Response: No comments.

17. Please provide us your views on the Fairer Scotland Duty and Strategic Environmental Assessment screening documents and our conclusion that full assessments are not required.

Response: No comments.

18. If you consider that full assessments are required, please suggest information sources that could help inform these assessments

Response: No comments.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
18 MAY 2021**

**SUBJECT: NATIONAL PLANNING FRAMEWORK 4- MINIMUM ALL TENURE
LAND REQUIREMENT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider the proposals for setting minimum all tenure housing land requirements for planning authorities in National Planning Framework 4 and to agree the proposed response in Paragraph 4.5 to be submitted to the Scottish Government, with additional evidence.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee;
 - (i) **note the proposals for setting minimum all tenure housing land requirements in National Planning Framework 4; and**
 - (ii) **agree the response set out in Paragraphs 4.4 to 4.6 be discussed with Homes for Scotland and the Housing Market Partnership and submitted to the Scottish Government, with additional evidence, before the deadline of 4 June 2021.**

3. BACKGROUND

- 3.1 The Planning (Scotland) Act 2019 sets out a requirement for the National Planning Framework (NPF) to include targets for the use of land in different areas of Scotland for housing. The Scottish Government has developed a methodology to establish initial default estimates to inform the identification of a minimum all tenure land requirement for individual authority areas. The paper explains these are a starting point for meeting the statutory requirement. Figures for past housing completions in each local authority

have been set out alongside the initial default estimates to help inform consideration.

- 3.2 Authorities have been asked by 4 June 2021 to;
- Consider the initial default estimates and whether alternatives to the default assumptions about household projections and existing housing need should be applied.
 - Consider whether you wish to propose a different flexibility allowance, which should generally be greater than the proposed 25% minimum for urban areas and 30% minimum for rural areas.
 - Assess the extent to which the proposed land requirement compares with past completions for the area. Where the proposed requirement is substantially lower the view is that authorities should consider whether it should be increased further.
 - Set out a locally adjusted estimate of the minimum all tenure housing land requirement for your local authority area as a result of these adjustments.

Consideration of the above should be informed by local input and evidence and reference policy ambitions regarding economic growth and other matters relevant to housing land figures. Consideration should also be given to national drivers such as rural repopulation and providing homes for older people and disabled people.

- 3.3 Housing Market Partnerships (HMP) should be engaged in consideration of the figures proposed by the Scottish Government with the Council's submissions to be signed off by the Head of Economic Growth and Development and the Head of Housing and Property.

4. PROPOSALS

- 4.1 A Methodology Paper has been published to explain how authorities can make a case to adjust the initial default estimates before they are included in the draft NPF4 which is anticipated to be published in Autumn 2021. The important linkages between the Local Housing Strategy (LHS), the Housing Need and Demand Assessment (HNDA) and Local Development Plan (LDP) established through the current planning system will remain in place. In future there will be a requirement for LDP's to be reviewed within a ten year period while the LHS and HNDA will retain a five year review period.
- 4.2 The methodology used to produce the initial default estimate of the minimum all tenure housing land requirements has been aligned to the HNDA methodology, i.e. the number of newly forming households and existing housing need count are equivalent to steps 1 and 2 of the HNDA Tool. Where authorities propose to adjust the initial default estimates to arrive at an adjusted figure they are required to make a case for change and to submit this to the Scottish Government for assessment.
- 4.3 Methodology.
- Part 1 Household Projections- initial default estimates use NRS 2018 based principal household projections for the period 2022 to 2037. Three additional options are available to the default, low migration household

projections; high migration household projections; household projections which are produced in house by an authority. Authorities are required to provide robust evidence of why they seek to use an alternative projection, which must be made on the basis of local, regional or national policy drivers and aspirations.

- Part 2- Existing Housing Need. The default existing housing need estimates include a count of homeless households in temporary accommodation. Authorities may make a case for a different existing need estimate. Existing housing need cannot be met by existing stock. Authorities must consider housing completions data presented alongside their initial default estimate.
- Part 3- Flexibility Allowance. The Scottish Government initial default estimate includes the addition of a 25% flexibility allowance for urban areas and 30% for rural authorities to allow a contingency for over-programming of land to allow for changes in sites coming forward over the 10 year time frame of the LDP. Authorities may make a case for a different level of flexibility which should generally be higher than the default.
- Part 4- Locally Adjusted Estimate of the Minimum All Tenure Housing Land Requirement. Authorities are invited to adjust any of the preceding steps and to submit the adjusted Excel Calculator with the Response Template.
- Part 5- HMP and Stakeholder Involvement. Stakeholders are encouraged to engage positively through constructive co-operation on the minimum all-tenure housing land requirement. A list of all HMP members and a summary of their views must be provided in this part of the template and an indication of whether they agree with the proposed minimum, with disputes noted. Views of others including housebuilders should also be noted.
- Part 6- Joint Housing and Planning Senior Officer Sign-Off

4.4 Proposed Response- the initial default estimates of the Minimum All- tenure Housing Land Requirement (HLR) is set out in the table below.

Authority	Default estimates. 10 years				Past housing completions
	Existing Housing Need	Newly Forming Households	Flexibility Allowance (30%)	Minimum housing land requirement	2010-2019
Moray	200	1,250	400	1,850	4,514
Authority	Proposed Response- Local adjustment				Past Housing Completions
Moray*	Existing Housing Need	Newly Forming Households	Flexibility Allowance	Minimum housing land requirement	2010-2019
	480	2180	798	3458	4514

Table 1- Proposed HLR from Scottish Government

- 4.5 As the first part of the table above demonstrates, the housing land requirement for the 10 year period proposed without any local adjustment would fall considerably short of previous housing completions and, although a minimum figure, could result in a shortfall of housing land over time, with resultant impacts upon economic growth and potentially homelessness and land values. Although Moray benefits from currently having a good supply of effective land for housing, supporting such an approach without local adjustment would result in shortfalls in housing land supply and would be contrary to the Council's approach to economic growth.
- 4.6 The second part of the table at "Moray*" sets out the proposed Council response as locally adjusted minimum figures, including;
- existing need is currently 480, significantly higher than the proposed figure of 200.
 - Using Council tax records the number of households in 2021 is estimated to be 43,600. Using a national forecast of 5% increase in the number of households in Moray over a 10 year period, this increases the newly forming households to 2180, significantly higher than the default figure and more reflective of previous completion rates. This is based upon the Council's economic growth aspirations to grow the economy, supporting a number of high profile Growth Deal projects, the increase of personnel and support roles at RAF Lossiemouth, aspirations to retain young people, attract talent and also reflecting the even stronger in-migration being experienced arising from Covid-19, reflected in much higher house sales than previously experienced.
 - Additional investment coming from Scottish Government funding to accelerate and deliver affordable housing and eradicate homelessness.
 - Adding flexibility of 30% results in a much more realistic minimum figure of 3458 **as a minimum to be achieved**.
- 4.7 It is proposed that the above figures and justification form the core of the response to the Scottish Government to meet the deadline and officers from planning and housing services provide the evidence base to support this position. As requested by the Scottish Government, Council officers will share the proposed response with the Housing Market Partnership and Homes for Scotland and note any points of disagreement.

5. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The LDP is a vital aspect of supporting and facilitating the Council's priority for economic growth. The Plan also aims to deliver other key objectives including the delivery of affordable housing.

Setting housing land requirements at the right and achievable minimum level supports the Corporate Plan and LOIP.

(b) Policy and Legal

Regional housing land targets are a new requirement set out in the Planning (Scotland) Act 2019.

(c) Financial implications

None at this stage.

(d) Risk Implications

There is a risk that if the minimum housing land requirements are set too high then they will be difficult to achieve and if it is set too low then it could fail to provide enough land for housing to meet need and demand.

(e) Staffing Implications

The full staffing implications of the new Planning (Scotland) Act 2019 will not be known until all regulations and guidance has been published and when these are reported to this Committee the staffing implications for services will be fully assessed.

(f) Property

None at this stage.

(g) Equalities/Socio Economic Impact

None at this stage.

(h) Consultations

Consultation has taken place with the Depute Chief Executive Economy, Environment and Finance, the Head of Economic Growth and Development, the acting Housing Strategy and Development Manager, the Legal Services Manager, the Equal Opportunities Officer and Paul Connor (Principal Accountant) and their comments incorporated into the report.

As requested by the Scottish Government, Homes for Scotland has been consulted through their Regional North Board chairperson and will be copied into the council's agreed response prior to submission to the Scottish Government. The Housing Market Partnership will also be consulted and any points of disagreement reported to the Scottish Government.

6. CONCLUSION

6.1 NPF4 will set out draft regional housing land targets, which will be a minimum which LDP's will be required to meet through land designations for residential use.

6.2 The Scottish Government is consulting planning authorities on draft figures which allow for consideration of local adjustments to take account of local circumstances. This report sets out the draft figures and proposes a higher minimum figure is set to support the Council's existing backlog need, forecast newly forming households and to reflect

past completions rates and the Council's aspirations for economic growth.

Author of Report: Gary Templeton, Strategic Planning and Development
Manager

Background Papers:

Ref: