

Planning and Regulatory Services Committee

Tuesday, 18 September 2018

NOTICE IS HEREBY GIVEN that a Meeting of the Planning and Regulatory Services Committee is to be held at Council Chambers, Council Office, High Street, Elgin, IV30 1BX on Tuesday, 18 September 2018 at 09:30.

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	Planning Application - 18/00384/EIA	
	Planning Application - 17/00120/PPP	
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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.

Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.

- * **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.

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THE MORAY COUNCIL

Planning and Regulatory Services Committee

SEDERUNT

Councillor David Bremner (Chair) Councillor Amy Taylor (Depute Chair) Councillor George Alexander (Member) Councillor John Cowe (Member) Councillor Gordon Cowie (Member) Councillor Paula Coy (Member) Councillor Paula Coy (Member) Councillor John Divers (Member) Councillor Ryan Edwards (Member) Councillor Claire Feaver (Member) Councillor Claire Feaver (Member) Councillor Louise Laing (Member) Councillor Marc Macrae (Member) Councillor Aaron McLean (Member)

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

MORAY COUNCIL

MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES COMMITTEE

19 JUNE 2018

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors D Bremner (Chair), A Patience (Depute), G Alexander, G Cowie, J Cowe, P Coy, R Edwards, C Feaver, L Laing, M Macrae and A McLean

APOLOGIES

Apologies for absence were intimated on behalf of Councillors J Divers and R McLean.

IN ATTENDANCE

The Head of Development Services, the Manager (Development Management), Mr N MacPherson, Principal Planning Officer (Development Management), Mr A Burnie, Principal Planning Officer (Development Management), Mr G Templeton, Principal Planning Officer (Planning & Development), Ms E Webster, Senior Planning Officer, Ms R MacDougall, Planning Officer, Mrs D Anderson, Senior Engineer (Transport Development), the Acting Consultancy Manager, Legal Services Manager (Property & Contracts) as Legal Adviser to the Committee and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the Agenda nor any other declarations of Members Interest in respect of any item on the Agenda.

2. **RESOLUTION**

The meeting resolved that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for items 13-15 of business on the grounds that they involve the likely disclosure of exempt information of the class described in Paragraph 1 of Part 1 Schedule 7A of the Act.

Para Number of Minute	Para Number of Schedule 7A	
13	13	
14	13	
15	12	

3. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE DATED 24 APRIL 2018

The minute of the meeting of this Committee dated 24 April 2018 was submitted and approved subject to the inclusion of wording at paragraph 10 to reflect the requirement for a transport statement within the Kinloss Golf Course Masterplan.

4. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

5. PLANNING APPLICATIONS

WARD 2: KEITH AND CULLEN

17/01198/EIA ERECTION OF 5 WIND TURBINES (AT MAX HEIGHT 130M TO BLADE TIP) CONTROL BUILDING AND SUBSTATION AND FORMATION OF ACCESS TRACKS (INCLUDING TURNING HEADS), HARDSTANDING, TEMPORARY CONSTRUCTION COMPOUND AND ASSOCIATED WORKS FOR INFRASTRUCTURE AT LURG HILL, DESKFORD FOR VENTO LUDENS LTD

A report by the Appointed Officer recommended that, for the reasons detailed in the report, planning permission be refused in respect of the erection of 5 wind turbines (at max height 130m to blade tip), control building and substation and formation of access tracks (including turning heads), hardstanding, temporary construction compound and associated works for infrastructure at Lurg Hill, Deskford for Vento Ludens Ltd. The report also advised that members of the Committee visited the site of the application on 15 June 2018.

The Committee noted that the application had been referred to Committee as the application raises matters of wider community interest and/or planning significance by virtue of the scale or height of the turbines, which exceed 40m (to blade tip).

During his introduction, Mr MacPherson, Principal Planning Officer advised that the Applicant had received further correspondence from the Ministry of Defence (MOD) confirming that a proposal by the Applicant to mitigate the unacceptable effects of the proposed development on the Air Traffic Control radar had been accepted and a suitable condition agreed however the MOD maintained their objection in relation to the effect on the Precision Approach Radar. Mr MacPherson confirmed that, even with this new information, there had been no formal withdrawal of objection from the MOD. He further advised that the Applicant had submitted a late representation which had been circulated to Members of the Committee however no new material planning considerations were included in this late representation. Mr MacPherson reminded the Committee that although the Applicant had made reference to the benefit to the Community in terms of business rates, these should not form part of the consideration process and should not be given any material weight.

Following consideration, Councillor Cowe moved that the Committee agree to refuse planning permission in respect of Planning Application 17/01198/EIA, as

recommended, for the reasons detailed in the report. This was seconded by Councillor A McLean.

There being no-one otherwise minded, the Committee agreed to refuse planning permission in respect of Planning Application 17/01198/EIA, as recommended, for the following reasons:

- 1. The proposal is located within the Broad Forested Hills within Upland Farmland (8a) landscape character type identified in the MWELCS 2017. The MWELCS judges that there is some limited scope to accommodate the large typology of wind turbine (80m - 130m high) within this landscape character type although constraints to development include the proximity of smaller scale settled landscapes and cumulative effects with other operational and consented wind energy development. The guidance set out in the MWELCS for this landscape character type concludes that turbines less than 100m high would be likely to minimise landscape and visual effects. This proposal would introduce a group of noticeably larger turbines into an area where a disparate array of differently sized operational wind turbines is already present. The consented Aultmore wind farm would add further wind energy development close by, although the siting of this particular development in the interior of a broad forested plateau and the use of 90m and 110m high turbines reduces its prominence from surrounding settled areas and cumulative effects with single and small groups of large farm turbines sited in the Grange Crossroads area.
- 2. Significant adverse effects would occur on the character of the nearby Burn of Deskford Valley where the proposed 130m high turbines would dominate the scale of buildings, woodlands and farmland. There would also be significant adverse effects on views from settlement and the B9018 in the Kirkton of Deskford to Grange Crossroads area, within approximately 5km of the proposed wind farm site and from Knock Hill and the Bin of Cullen. The contrasts of scale and siting between this proposal and operational wind turbines sited on the lower slopes of Lurg Hill would contribute to these adverse visual effects.
- 3. A number of inhabited properties within the immediate surrounding area would also experience significant visual impacts due to the close proximity and height of the proposed turbines, and their elevated position, which would be overbearing and unacceptable for occupants/visitors. Trees seen in the context of the proposed turbines (as a scale indicator) would further emphasise the overwhelming vertical scale of the turbines viewed from these locations.
- 4. The proposal would therefore give rise to significant adverse landscape character, visual, cumulative and amenity impacts, contrary to policies ER1, PP1 and IMP1, as it would not provide for a sensitive development of renewable energy nor integrate into the surrounding landscape the proposal. It would also be counter to relevant advice and guidance as contained in the MOWE and MWELCS.
- 5. The proposed turbines will be detectable by, and cause unacceptable interference to both the ATC and PAR radar at RAF Lossiemouth, and as such would have a significant and detrimental effect on operations and on the provision of air traffic services at RAF Lossiemouth, contrary to policy ER1.

WARD 4: FOCHABERS LHANBRYDE

17/01422/APP ERECTION OF A NEW PRIMARY SCHOOL WITH ASSOCIATED EXTERNAL HARD AND SOFT LANDSCAPING, FENCING, CAR PARKING, PLAYGROUND, LIGHTING, SPRINKLER HOUSING, EXTERNAL EQUIPMENT STORES, CYCLE SHELTERS AND EXTERNAL REFUSE STORE AT ELGIN SOUTH, ELGIN FOR HUB NORTH SCOTLAND

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of the erection of a new primary school with associated external hard and soft landscaping, fencing, car parking, playground, lighting, sprinkler housing, external equipment stores, cycle shelters and external refuse store at Elgin South, Elgin for HUB North Scotland. The report also advised that members of the Committee visited the site of the application on 15 June 2018.

The Committee noted that the application is a 'local' development by reference to current Heirarchy Regulations 2009 but a 'major' development by reference to the Council's approved Scheme of Delegation where the gross floor space of the building/structure exceeds 2000 sq m.

During his introduction, Mr Burnie, Principal Planning Officer advised the Committee of a typo at Condition 17 a) and c) which should read "in accordance with Condition 36 iii)" and not iv) as printed. This was noted.

Following consideration, Councillor Alexander moved that the Committee agree to grant planning permission in respect of Planning Application 17/01422/APP, as recommended, subject to the conditions and reasons detailed in the report.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 17/01422/APP, as recommended, subject to the following conditions and reasons:

 The permission hereby granted shall relate to the application as amended by the applicant's agent in terms of both amended and additional design details (for school building, sprinkler tank enclosure, bin store, and ASN and nursery external stores etc.) and site layout details (including alteration of the road layout, revised surface water drainage layout including addition of surface water (SUDs) attenuation pond and amended application site boundary to include the connection of two footpaths between the school and the existing Core Path EG06 and the extension of the "avenue" path onto the (northern) boundary of the school site etc.) all as described on, but not limited to, drawings 6061-JMA-00-ZZ-DR-A-00-2102 P08 S2 and 6061-JMA-ZZ-ZZ-DR-A-00-0002 P010 S2, etc.

Reason: To ensure an acceptable form of development in the interests of the appearance and amenity of the development and the surrounding area, and in accordance with the amended application particulars.

2. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority regarding:

- a) samples and/or specifications and colouration of all external material finishes for all buildings/structures within the development;
- b) the location, design including confirmed height and external appearance of all discharges including the kitchen extract vent and three chimney flues or equivalent to be installed on the development as identified on drawing 6061-JMA-00-02-DR-A-00-0101 P03 S2;
- c) where not contained within any roof plant or deck area and/or projecting above any parapet and/or screen enclosing the roof areas of the school building, details to confirm the location and design specifications including height, external appearance and material finishes for all fixed plant and machinery, including ventilation and extraction, air conditioning and refrigeration systems or similar to be externally mounted or installed on the building;
- d) details to confirm the location, extent of roof area and design specifications for all proposed photo-voltaic panels to be installed within the roof area of the building including the size of each panel and array (or string) of panels and their height of projection above the roof slope and any parapet and/or screen enclosing the roof areas of the school building;
- e) details to confirm the location, design specifications and material finishes including colour of the proposed cycle shelter to be provided within the site as identified on drawing 6061-JMA-ZZ-ZZ-DR-A-00-0002 P010 S2. The details shall demonstrate that the design of the shelter provides for secure parking for 33 no cycle spaces, in accordance with Condition 14;
- f) details to confirm the location, design specifications and material finishes and timescale(s) for provision of all fences, railings or other means of enclosure to be erected within and around the boundaries of the site;
- g) details to confirm the location, size (dimensions) and design specifications and timescale for the provision of the proposed MUGA-multi-play games court within the site;
- h) a revised External Lighting Layout to accompany and relate to the revised site layout arrangements for the development (and therefore the lighting information contained within drawing 62933-DSSR-EXT-XX-DR-MEP-63001 P3 (by DSSR for Hub North Scotland) is not accepted here because it refers to initially submitted site layout details);
- details to confirm the timescale(s) to provide the connection of each foot path to be provided between the grounds of the school and the existing Core Path EG06, and the "avenue" path to be provided between the southern and northern boundaries of the school site; and
- j) in the event of any revision to the proposed drainage arrangements to service the site, details to confirm the finalised locations of both foul and surface water manholes to be provided to enable the separate discharge and disposal of foul and surface water off the site.

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

Reason: Details of the matters specified are lacking from the submitted particulars or are described as "tbc" or illustrative or subject to specialist design or equivalent, and to ensure an acceptable form of development in the interests of the appearance and amenity of the development and the surrounding area.

3. In relation to the proposed (amended) landscaping arrangements, no development shall commence until details have been submitted to and approved by the Council, as Planning Authority regarding:

- a) the arrangements to protect existing planting located along the western boundary of the site before, during and after construction works for the school including the formation of the path links to be provided between the school and Core Path EG06 (the former dismantled railway line) located along the western boundary of the site;
- b) to supplement the proposed (tree, shrub and hedge) planting along the southern boundary, details of further hedge planting (including location and planting specifications (number, species, position, planting distances and sizes) to be provided between the (vehicle) access to the site and the area of 'feature paving (opportunity to connect with the wider masterplan subject to discussion with adjacent land owner)' located adjacent to the proposed cycle shelter (drawing ED12204-L-4000 Rev F refers);
- c) details, to include the location and planting specifications (number, species, position, planting distances and sizes) of the proposed SUDs wetland habitat planting area including aquatic planting etc. (drawing ED12204-L-4002 Rev D refers); and
- d) details to confirm the timescale(s) for all landscape planting arrangements to be provided within the site.

Thereafter, the development shall be implemented in accordance with the approved landscaping details and for all landscaping requirements whether provided in accordance with the requirements of this condition or the amended landscaping arrangements already provided, any trees, shrubs and hedging which, within a period of 5 years from the planting, die, are removed or become seriously damaged or diseased shall be replaced not later than the end of the following planting season with others of similar size, number and species unless otherwise agreed, in writing, with the Council, as Planning Authority.

Reason: In order that detailed consideration can be given to the landscaping of the site including landscaping details currently lacking from the submission and to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the amenity and character of the development or the surrounding area.

- 4. The arrangements for the management and disposal of surface water within (and off) the site shall be undertaken in accordance with the (revised) drainage strategy and design details identified within the Drainage Assessment & Flood Risk Assessment (September 2017, Issue 04 dated 16 May 2018 by Waterman) including the proposed drainage layout (drawing WE-SA-92-0700-A10 by Waterman) with surface water drainage discharging to an above ground SUDs attenuation pond arrangement (replacing an earlier proposed below ground attenuation system which is not approved) located towards and within the north western corner of the site (drawing 6061-JMA-ZZ-ZZ-DR-A-00-0002 P010 S2 refers) <u>BUT</u> no development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with Moray Flood Risk Management and SEPA regarding:
 - a) detailed design specifications, to include cross and long sections (to scale) to describe the actual formation of the proposed SUDs pond (as opposed to "Typical" details shown in the identified Drainage Assessment & Flood Risk Assessment), including its extent, size or area and depth of pond and permanent water level, angle of repose/incline of side slopes, and any proposed series of terraces or benches to be provided within the pond, for example for the establishment of the proposed aquatic zone,

together with confirmation of the design standard(s) (related to flood and/or rainfall event period(s)) and finished levels for the pond shall be related to existing ground levels and a fixed datum level;

- b) details of any separate or specialist surface water drainage arrangements and requirements for the proposed MUGA multi-play games court;
- c) details of the arrangements to address the integration of any separate or specialist drainage arrangements (for example, for the proposed MUGA multi-play games court) into the overall surface water drainage scheme for the school as hereby approved;
- d) as proposed/identified within the identified Drainage Assessment & Flood Risk Assessment, details to confirm the results of any further infiltration tests (in line with BRE digest 365) carried out on the site to determine ground conditions including soil porosity and feasibility for infiltration within the site;
- e) notwithstanding the indicative details included in the identified Drainage Assessment & Flood Risk Assessment, details to confirm:
 - the arrangements for the disposal of surface water off the site, including the location and route of the pipe from the proposed SUDs attenuation pond and manholes into which surface water will be discharged within the school site to the proposed outfall into the Linkwood Burn;
 - ii) the design specifications including material finish of the outfall including inlet and outlet levels; and
 - iii) the design specifications, which may include cross-sections, to describe the pipe dimension, pipe bedding and depth and width of trench; and
- f) details to confirm the adopting authority/authorities or in perpetuity body/bodies for all surface water drainage arrangements.

Thereafter, the development shall be implemented in accordance with the approved surface water drainage arrangements and all approved surface water arrangements shall be provided and made operational prior to first use and occupation of the school.

Reason: To ensure an acceptable and sustainable form of development is achieved in relation to the management and disposal of surface water from the site including details of the matters specified are currently lacking from the current proposed drainage design.

- 5. In the event that the results of further investigation of porosity and infiltration (Condition 4 d) refers) inform and determine any required/proposed revision to the proposed surface water drainage arrangements identified within Condition 4 above then, prior to development works commencing on the site a revised surface water drainage scheme shall be submitted to and approved by the Council, as Planning Authority in consultation with Moray Flood Risk Management and SEPA. The revised scheme shall identify:
 - a) the (revised) drainage strategy and details of all sustainable drainage (SUDs-based) features to be provided including details of the location, design construction specifications, level(s) of treatment, supporting calculations (including use of the simple index approach) and timescale(s) for the provision and maintenance of all (sustainable) surface water features including roads drainage to be incorporated into the site layout of the development;

- b) be designed to and demonstrate compliance with all aspects of guidance contained within the SUDs Manual by CIRIA C753;
- c) be designed to manage surface water rainfall events up to and including the 1 in 200-year plus climate change rainfall return event, provide above ground attenuation, and the rate and volume of surface water run-off from the post-development situation shall not exceed the surface water run-off from the existing greenfield site; and
- d) confirm the adopting authority/authorities or in perpetuity body/bodies for all surface water drainage arrangements.

Thereafter, the development shall be implemented in accordance with the approved (revised) surface water drainage arrangements and all approved surface water arrangements shall be provided and made operational prior to first use and occupation of the school.

Reason: To ensure an acceptable if revised sustainable form of development is achieved in relation to the management and disposal of surface water following further investigation of soil porosity and infiltration within the site.

- 6. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with Moray Flood Risk Management and SEPA regarding a construction surface water management plan (which may also be included as part of the requirements of Condition 7). The plan shall:
 - a) include the location, design specifications and time-scales(s) for the provision and duration of all required, proposed temporary site construction SUDs in order to demonstrate that surface water run-off from the site will be managed and not increase the risk of flooding during the construction phase of the development; and
 - b) in taking into account all proposed construction working practices to be undertaken within the site, identify all measures to be adopted and implemented to control, intercept and prevent surface water and sediment run-off from the site including, but not be limited to, measures identified in the Drainage Assessment & Flood Risk Assessment (September 2017, Issue 04 dated 16 May 2018 by Waterman).

Thereafter, the development shall be implemented in accordance with the approved construction surface water management details and all proposed/approved arrangements shall be provided and in-situ prior to first commencement of construction works on the site.

Reason: To ensure an acceptable form of development and to mitigate and minimise the impact of construction works on the existing (water) environment, including the absence of confirmed or actual measures to be adopted within the submitted Drainage Assessment & Flood Risk Assessment.

7. Notwithstanding the submitted Construction and Management Environmental Plan (by Balfour Beatty, which is not hereby accepted), no development shall commence until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Council, as Planning Authority in consultation with SEPA, SNH and other agencies as appropriate. The CEMP shall:

- a) address all pollution prevention and environmental management issues related to the development;
- b) identify all risks and detailed pollution prevention measures, site management and mitigation measures for all elements potentially capable of giving rise to pollution and be supported by drawing(s) to show the location of management features;
- c) specifically address and include the following:
 - incorporation of CIRIA C753 guidance and SEPA's Guidance for Pollution Prevention 2 into site-specific proposals;
 - a site-specific plan to show areas where spill kits will be held, the welfare compound, fuel storage areas, etc. (i.e. general site construction site activities);
 - details about how the concrete wash will be emptied and where wastewater will be disposed, including arrangements to prevent spills and leaks;
 - details of the provision for wheel/boot wash including the location of the facility and arrangements to remove wash effluent off the site, and details for the provision for a drip tray for any refuelling bowser;
 - a drainage plan for SUDs for all relevant construction areas and due to the presence of the Linkwood Burn and it's tributary, details about how these waterbodies will be protected during the construction phase (see also Condition 6 above); and
 - a wet weather management plan showing how excavation and movement of top soils and the re-grading of land during construction will be minimised or prevented/avoided in wet weather; and
- d) in accordance with the submitted Preliminary Ecological Appraisal (August 2017 by Waterman), identify and confirm all ecological measures, including 'good practice' measures to be adopted, including but not limited to mitigation arrangements to be adhered to in the form of protection measures to habitats and protected and notable fauna including birds (nesting and foraging) and bats (foraging and commuting) during the construction phase of the development.

Thereafter, and throughout its construction period, the development shall be implemented in accordance with the approved CEMP details.

Reason: To ensure an acceptable form of development and to minimise impacts of construction upon the surrounding land, air and water environment, including protected and notable species/habitats and the amenity of neighbouring property.

- 8. No development shall commence until details have been submitted to the Council, as Planning Authority in consultation with SNH to confirm all required/proposed mitigation and enhancement measures to be incorporated into the development in relation to habitats and protected and notable fauna. The details shall be based closely upon (but not limited to) the recommendations within the submitted Preliminary Ecological Appraisal (August 2017 by Waterman) and shall:
 - a) identify and confirm all landscape planting species intended to provide a variety of foraging resources for protected and other species, for example bats and birds;
 - b) identify and confirm all measures to be included and adopted to minimise the risk to wildlife including protected and other species and habitats during construction;

- c) identify and confirm all ecological enhancement measures to be incorporated into the design of the development. The enhancement measures may include, but not be limited to:
 - measures to retain and enhance green corridors (for example, along the western boundary of the site);
 - measures to provide and enhance foraging and commuting opportunities for protected (and other) species (including any revisions, where required, to currently submitted landscape details to improve connectivity between the site and foraging/commuting routes);
 - the provision of bat boxes, bird boxes and invertebrate boxes/bug hotels (to include details about the number, location, design specifications and timescale(s) for provision of such boxes or similar, to enhance the value of the site to species); and
 - details to demonstrate that a sensitive external lighting scheme is provided, to minimise the impact of the development during both construction and operation of the development;
- d) details to confirm the arrangements including timescale(s) for undertaking ground breaking and vegetation clearance operations on the site, to be undertaken outwith the bird breeding season and where such works cannot be undertaken outwith the bird breeding season, the arrangements to undertake further on-site, pre-commencement survey work arrangements to check the site for the presence of protected species and mitigation measures to be adopted in the event of the presence of protected species and habitats on the site; and
- e) details to confirm the location, design specifications and timescale(s) for provision of proposals for anti-gull prevention measures to be incorporated into the design of the development.

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

Reason: Details of the actual measures to be adopted in order to mitigate the impact of the development upon habitats and species, and to enhance biodiversity are lacking from the submitted particulars and to ensure an acceptable form of development in accordance with the recommendations identified in the submitted Preliminary Ecological Appraisal both to afford protection of species and habitats and identification of measures to conserve and enhance biodiversity of the site as well as raise educational and environmental awareness as part of the development.

9. Construction works 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 outwith these permitted hours (including national holidays) shall construction works be undertaken except where previously agreed, in writing, with the Council, as Planning Authority in consultation with the Environmental Health Manger and where so demonstrated that operation constraints require limited periods of construction works to be undertaken outwith the permitted/stated hours of working.

Reason: To minimise the impact of construction works on the amenity of the surrounding area, including neighbouring residential property.

 Unless otherwise agreed, construction noise criteria for the permitted construction hours (Condition 9) shall be in accordance with BS 5228 ABC method detailed in Table 11, Section 4.1.1 of the submitted Noise Impact Assessment (document WIE 12754-101-2-1-2-MM, August 2017, titled "Linkwood Primary School, Elgin, Noise Impact Assessment", by Waterman).

Reason: To minimise the impact of construction works upon the amenity of the surrounding area, including neighbouring residential property in accordance with the applicant's submitted Noise Impact Assessment.

11. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding the proposed kitchen ventilation/extraction system to be installed, including all measures to mitigate and control cooking odours together with the arrangements for the maintenance of any installed system.

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

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development in the interests of the amenity of the area including any neighbouring residential property.

12. Fixed mechanical plant associated with the operation of the development shall not exceed the rating level L_{Ar, Tr} of 33 dB during the daytime period of 0700 to 2300 hours at the nearest noise sensitive dwelling. Where required, all measurement and assessment to demonstrate compliance with the rating level as hereby specified shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: To ensure an acceptable form of development and minimise the impact of fixed plant operational noise associated with the development upon the amenity of the surrounding area, including neighbouring property.

13. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with Aberdeenshire Archaeology Services regarding a written scheme of investigation to implement a programme of archaeological works on the site. The scheme shall provide for a monitored 5-7% trial trenching evaluation of the site. The results of the evaluation shall inform and identify whether further phases of mitigation are required.

Thereafter, the development shall ensure that the approved programme of works is fully implemented and all recording and recovery of archaeological resources within the site shall be undertaken to the satisfaction of the Council, as Planning Authority in consultation with Aberdeenshire Archaeology Services.

Reason: To safeguard and record the archaeological potential of the site in accordance with the recommendations of the submitted Historic Environment Desk Based Assessment (September 2017, by Waterman).

14. Parking provision for Linkwood Primary School as hereby approved shall be provided and made available for use at all times in accordance with the following level(s) of provision:

- standard spaces 36 spaces
- disabled spaces 4 spaces
- secure and covered cycle spaces 33 spaces

Thereafter, the school shall not be brought into use until all parking has been provided in accordance with the approved details and the parking arrangements shall be retained and maintained in perpetuity as parking spaces unless otherwise agreed in writing with the Council, as Planning Authority.

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

- 15. No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding the formation of any proposed/required construction access (which includes any temporary access) to the development from any public road. The required details shall include:
 - i) a drawing (scale 1:500 minimum) regarding the location and design specifications of the proposed access;
 - ii) all traffic management measures required to ensure safe operation of the construction access; and
 - iii) details including materials and timescales for the formation and subsequent re-instatement of the land once any temporary construction access is no longer required.

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

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

- 16. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
 - duration of works;
 - construction programme;
 - number of vehicle movements (i.e. materials, plant, staff, components);
 - anticipated schedule for delivery of materials and plant;
 - measures to be put in place to prevent material being deposited on the public road; and
 - parking provision, loading and unloading areas for construction traffic.

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

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

17. Prior to the first use commencing or occupation of Linkwood Primary School and through it's association and location within the Phase 1 Elgin South Page 18 development area (as approved under formal decision notice 16/01244/APP dated 10 May 2018), the following shall be delivered in accordance with required and/or approved details (including location and design specifications informed by a Stage 1/2 Road Safety Audit) and agreed timescales which shall previously have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- a) the delivery of a new pedestrian and cycle bridge crossing the Linkwood Burn, in accordance with Condition 36 i) and iii) of the aforementioned formal decision notice;
- b) the delivery of a 3.0m wide cycle path connection from the new pedestrian and cycle bridge crossing to the proposed development entrance including provision of a toucan crossing on Linkwood Road, in accordance with Condition 59 i) and iii) of the aforementioned formal decision notice;
- c) the delivery of a continuous 6.0m wide carriageway and pedestrian and cycle shared use path on the eastern side of the road side from the Linkwood bridge to the junction with Reiket Lane, in accordance with Condition 36 ii) and iii) of the aforementioned formal decision notice; and
- a detailed drawing (scale 1:500) showing the location, design specifications and timescale for delivery of a 6m wide road (minimum) with 3m wide shared use path on the north side from the site access to and including a new priority junction onto Linkwood Road with a 4.5m x 120m visibility splay at the junction. The design details for this road shall also be informed by a Stage 1/2 Road Safety Audit (RSA) and the RSA shall be included as part of the required details.

Reason: To ensure acceptable infrastructure is provided to access the development by foot, cycle, vehicle and public transport in the interests of road safety, including the provision of details currently lacking from the submission.

WARD 4: FOCHABERS LHANBRYDE

17/01710/APP ERECT INDOOR TENNIS COURT CENTRE AT MORAY SPORTS CENTRE, LINKWOOD ROAD, ELGIN FOR MORAY SPORTS CENTRE

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of the erection of an indoor tennis court centre at Moray Sports Centre, Linkwood Road, Elgin for Moray Sports Centre. The report also advised that members of the Committee visited the site of the application on15 June 2018.

The Committee noted that the application had been referred to the Committee as the application is a major development under the approved Scheme of Delegation where the gross floorspace of the Centre exceeds 2000 sq m.

During his introduction, Mr Burnie, Principal Planning Officer advised the Committee of a typo at Condition 6 a) and c) which should read "in accordance with Condition 36 iii)" and not iv) as printed. This was noted.

Following consideration, the Chair moved that the Committee agree to grant planning permission in respect of Planning Application 17/01710/APP, as recommended, subject to the conditions and reasons detailed within the report.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 17/01710/APP, as recommended, subject to the following conditions and reasons:

- 1. In respect of the proposed (4-court) indoor Tennis Court Centre facility:
 - a) no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the 6-court outdoor tennis facility included as part of the development approved under formal decision notice 16/01244/APP dated 10 May 2018; and
 - b) no part of the permission as hereby granted extends to 'Phase 2' of the indoor Tennis Court Centre as indicated on drawing MSC_SL_PL_02 Rev A.

Reason - In accordance with the applicant's supporting statement/letter as submitted with the application (1 November 2017) and in order to ensure an acceptable form of development whereby only one permission to provide tennis courts alongside the Moray Sports Centre (as approved under formal decision notice 16/01244/APP dated 10 May 2018) is implemented, the indoor tennis court facility being proposed in lieu of the previously proposed outdoor tennis court facility and is considered here as an acceptable alternative to that already approved rather than an addition thereto. No detailed design, site layout and servicing arrangements for 'Phase 2' have been provided as an integral part of this current application.

- 2. As part of the development hereby approved:
 - a) the indoor Tennis Court Centre shall operate alongside, and be used in conjunction with the Moray Sports Centre (to be provided as part of the development approved under formal decision notice 16/01244/APP dated 10 May 2018) including provision for, and use of, parking and changing accommodation and access to/from and through the Moray Sports Centre;
 - b) the proposed access onto Linkwood Road shall be a temporary access for use during the construction of the indoor Tennis Court Centre; and
 - c) the area located to the south and east of the indoor Tennis Court Centre shall be used solely as a site compound area for use during the construction of the indoor Tennis Court Centre as hereby approved.

Reason - In accordance with the applicant's submitted particulars and amended details and to ensure an acceptable form of development.

- 3. Once provided and first made available for use:
 - a) in relation to toilet facilities or equivalent provision being provided within under formal decision notice 16/01244/APP dated 10 May 2018), the 2no. portaloos, where so installed for use in conjunction with the indoor Tennis Court Centre, shall be permanently removed from the site and the land shall revert to its intended use as part of the landscaped external sports and recreational area forming part of the Moray Sports Centre, in accordance with the aforementioned formal decision notice; and
 - b) in relation to the indoor Tennis Court Centre as hereby approved, the temporary hardcore aggregate surface to the site compound together with all site compound accommodation equipment machinery and materials shall be permanently removed from the site and the temporary access

onto Linkwood Road shall be permanently closed up and all affected land shall revert to its intended use as part of the landscaped external sports and recreational area forming part of the Moray Sports Centre and/or landscaping arrangements to be provided along Linkwood Road, in accordance with the aforementioned formal decision notice.

Reason - In accordance with the applicant's submitted particulars and amended details, and to ensure an acceptable form of development wherein the site compound and access arrangements off Linkwood Road are all temporary facilities to be provided solely during the construction phase of the Centre as hereby approved.

4. No development shall commence until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has previously been submitted to and approved by the Council, as Planning Authority in consultation with Aberdeenshire Council Archaeology Service. The required scheme details shall provide for a 5 - 7% trial trenching archaeological evaluation of the site and the results of the evaluation shall inform and identify whether further archaeological mitigation is required.

Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the agreement of the Council, as Planning Authority in consultation with Aberdeenshire Council Archaeology Service.

Reason - To safeguard and record the archaeological potential of the area.

- 5. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Moray Access Manager regarding a detailed Public Access Plan for the development as hereby approved. The Public Access Plan shall:
 - a) address the arrangements (existing, during construction and upon completion of the development) for public access across the site;
 - b) be based upon, and incorporate the requirements of, Condition 25 of the development as approved under formal decision notice 16/01244/APP dated 10 May 2018 including any Public Access Plan prepared for the Moray Sports Centre alongside which the indoor Tennis Court Centre would operate; and
 - c) include the timescale(s) for the provision of all foot and cycle paths, in particular proposals for connectivity of the indoor Tennis Court Centre as hereby approved to existing and/or proposed foot and cycle path arrangements along Linkwood Road, the latter to be provided in accordance with the aforementioned decision notice.

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

Reason - To ensure an acceptable form of development wherein details of the matter specified is lacking from the submission, and in the interests of public access and connection of the site to wider path networks.

- 6. Prior to the first use commencing or occupation of the indoor Tennis Centre, and through it's association, use and location within the grounds of the Moray Sports Centre (to be provided as part of the development approved under formal decision notice 16/01244/APP dated 10 May 2018), the following shall be delivered in accordance with details (including location and design specifications informed by a Stage 1/2 Road Safety Audit) and agreed timescales which shall previously have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
 - a) the delivery of a new pedestrian and cycle bridge crossing of the Linkwood Burn, in accordance with Condition 36 i) and iii) of the aforementioned formal decision notice;
 - b) the delivery of a 3.0m wide cycle path connection from the new pedestrian and cycle bridge crossing to the proposed development entrance including provision of a toucan crossing on Linkwood Road, in accordance with Condition 59 i) and iii) of the aforementioned formal decision notice; and
 - c) the delivery of a continuous 6.0m wide carriageway and pedestrian and cycle shared use path on the eastern side of the road side from the Linkwood bridge to the junction with Reiket Lane, in accordance with Condition 36 ii) and iii) of the aforementioned formal decision notice.

Reason – To ensure acceptable infrastructure is provided to access the development by foot, cycle, vehicle and public transport in the interests of road safety, through the provision of details currently lacking from the submission.

- 7. As part of the development hereby granted and through its association, use and location within the grounds of the Moray Sports Centre (to be provided as part of the development approved under formal decision notice 16/01244/APP dated 10 May 2018):
 - a) prior to development works commencing on the indoor Tennis Centre as hereby approved, details shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority regarding the detailed location and design specifications for cycle parking provision, in accordance with the requirements of Condition 5 i) and 56 of the aforementioned formal decision notice; and
 - b) prior to use of the indoor Tennis Court Centre hereby approved first commencing, all operational parking (disabled, car motorcycle and cycle) for the development associated with the adjacent Moray Sports Centre shall be provided and made available for use, in accordance with the operational parking specifications required under Condition 5 i) and 56 of the aforementioned formal decision notice.

Reason - To ensure the permanent availability of the level of parking necessary in the interests of an acceptable development and road safety and in accordance with the applicant's submitted particulars which confirm that the indoor Tennis Centre will operate alongside the MSC and utilise its car parking.

8. As part of the development hereby granted and through it's association, use and location within the grounds of the Moray Sports Centre (to be provided as part of the development approved under formal decision notice 16/01244/APP dated 10 May 2018), no development shall commence until the following details have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- a) a Travel Plan, which sets out proposals for reducing dependency on the private car, in accordance with Condition 40 of the aforementioned formal decision notice. The Plan shall be implemented from the first date of use of the indoor Tennis Court Centre hereby approved; and
- b) a Travel Information Pack, which sets out opportunities for travel by foot, cycle and public transport, in accordance with Condition 41 of the aforementioned formal decision notice; and

Thereafter, the Plan and Pack shall be provided and made available in accordance with the approved details.

Reason - To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment together with details of the matters specified being insufficient or lacking from the submitted particulars, and to ensure an acceptable form of development in the interests of, amenities and appearance of the development including the provision of cycle parking for persons attending the site.

 No development shall commence until details (scale 1:500) have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority showing the vehicle swept paths for any operational (servicing) associated with the temporary toilet facilities

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

- 10. No development shall commence on any area proposed for development of the indoor Tennis Centre until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding the formation of any required/proposed (temporary) site construction accesses (which includes any temporary access(es) to the area proposed for development from any public road). The details shall include:
 - a) a drawing (scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
 - b) specification of the materials used for the construction access(es);
 - c) all traffic management measures required to ensure safe operation of the construction access(es);
 - d) details including materials for the reinstatement of any temporary construction access(es); and
 - e) 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 works shall be provided in accordance with the approved details.

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

11. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority (in accordance with the scope of the CTMP which shall previously have been agreed with the Council, as

Roads Authority). The CTMP details shall include but not be limited to the following:

- duration of works;
- construction programme;
- number of vehicle movements (i.e. materials, plant, staff, components);
- anticipated schedule for delivery of materials and plant;
- measures to be put in place to prevent material being deposited on the public road;
- parking provision, loading and unloading areas for construction traffic.

Thereafter, the CTMP shall be implemented in accordance with the approved details for the duration of the construction works associated with the indoor Tennis Centre.

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

12. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with Moray Flood Risk Management for a construction surface water management plan for the development. The plan shall include the location, design specifications and time-scales(s) for the provision and duration of all required, proposed temporary site construction SUDs in order to demonstrate that surface water run-off from the site will be managed and not increase the risk of flooding during the construction phase of the development.

Thereafter, the development shall be implemented in accordance with the approved construction surface water management plan details.

Reason - To ensure an acceptable and sustainable form of development is provided in order to minimise the impact of construction works on the (water) environment, including details which are lacking from the submission including confirmation of actual measures to be provided.

WARD 4: FOCHABERS LHANBRYDE

17/01958/APP ERECT 61-BED HOTEL, ASSOCIATED PLANT, PARKING ACCESS, LANDSCAPING AND WORKS AT LAND TO THE SOUTH OF THE A96(T) AT PLOT 3B BARMUCKITY BUSINESS PARK, ELGIN FOR DRUM CAPITAL PROJECTS LTD/TRAVELODGE HOTELS LTD

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of the erection of a 61-bed hotel, associated plant, parking access, landscaping and works at land to the south of the A96(T) at Plot 3B, Barmuckity Business Park, Elgin for Drum Capital Projects Ltd/Travelodge Hotels Ltd. The report also advised that members of the Committee visited the site of the application on15 June 2018.

The Committee noted that the application had been referred to the Committee as the application has been advertised as a departure from the local development plan.

During his introduction, Mr MacPherson, Principal Planning Officer advised that, in relation to the landscaping detailed in condition 2, it was intended to use Ash trees however due to a disease affecting Ash trees at the moment, the Applicant had agreed to use a suitable alternative species. Mr MacPherson sought the agreement of the Committee to include an informative that the landscaping scheme referred to in condition 2 and 4 shall not include the provision of any proposed Ash trees and that these should be replaced with a suitable native alternative. This was agreed.

During discussion surrounding the provision of accessible car parking spaces at the proposed development, Councillor Cowe raised concern that there were not enough accessible spaces to accommodate other users of the facility beyond the number of accessible rooms within the hotel and moved to grant planning permission in respect of Planning Application 17/01958/APP, as recommended, subject to the conditions and reasons detailed within the report including an additional condition for the provision of an amended plan detailing an increase to at least 5 disabled parking spaces to the satisfaction of the Transportation Service. This was seconded by Councillor Coy.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 17/01958/APP, as recommended, subject to the following conditions and reasons including:

- (i) an additional condition for the provision of an amended plan detailing an increase to 5 disabled parking spaces to the satisfaction of the Transportation Service; and
- (ii) an informative from the Manager (Development Management) that the landscaping scheme referred to in condition 2 and 4 shall not include the provision of any proposed Ash trees and that these should be replaced with a suitable native alternative.
- 1. The use hereby approved shall not come into use until it is accessed from a fully opened roundabout entrance onto the A96 trunk road.

Reason - To ensure that the movement of traffic and pedestrians is confined to the permitted means of access thereby lessening the danger to and interference with the free flow of traffic on the trunk road.

- Unless otherwise agreed in writing with the Council as Planning Authority the following submission supplements the approved landscaping for the site and can be identified as the approved Landscape Design for Elgin Business Park – Phase 1 submitted to Moray Council on 30st May 2018. This includes the following report and associated drawings listed below:
 - a) Landscape Design Report Elgin Business Park
 - b) Detailed Landscape Proposal: Associated Details, Drawing No. LSCP_SL_01 Rev #
 - c) Detailed Landscape Proposal: Plan, Drawing No. LSCP_SL_01 Rev C.
 - d) Detailed Landscape Proposal: Existing & Proposed Sections A-A, Drawing No. LSCP_SL_02 Rev B
 - e) Detailed Landscape Proposal: Existing & Proposed Sections B-B, Drawing No. LSCP_SL_03 Rev B

The boundary screen planting and associated engineering works/structures shall be implemented in full in accordance with the timescales set out in section 6 of the Landscape Design Report. Any trees, shrubs and hedge plantings which within a period of 5 years from 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 spacing unless the Council, as Planning Authority gives written consent to any variation of this condition and during and after the specified period all landscaping details shall be maintained in accordance with the above Landscape Design Report Maintenance Schedule Section 8.

Reason - In order to ensure that the approved landscaping works and related adjoining landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development of the amenity, appearance, character and quality of the development and the surrounding area.

3. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the hotel; or the completion of the building works, whichever is the sooner. 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 this Council (as Planning Authority) gives written consent to any variation of this planning condition.

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

4. The landscaping shall be carried out in accordance with the approved landscape scheme and once planted must thereafter be maintained in accordance with the submitted Travelodge landscaping maintenance policy submitted as part of the landscaping scheme.

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

5. During the night time hours of 2300 to 0700 hours the rating level of noise associated with the development shall not exceed 34 dB at the nearest noise sensitive dwelling. Measurement and assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason - In the interests of residential amenity or noise sensitive buildings.

6. The northern composite façade of the proposed hotel (comprising walls, windows and ventilation methods) shall provide a noise reduction of at least 46 dB RW to external road traffic noise levels, in order to ensure that internal levels in bedrooms meet with the noise levels stated in Table 4 of the noise impact assessment supporting document by ITP Energised, 7 Dundas Street, Edinburgh, EH3 6QG, dated 29/01/2018.Project Number 11297-002 and titled "Proposed Hotel - Barmuckity Business Park, Elgin, Noise & Vibration Assessment."

Reason – In order to ensure that the noise levels for prospective users of the hotel are sufficiently protected from trunk road traffic noise.

7. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, details of measures to suitably control cooking odours arising from the use of the premises, including the installation and maintenance of any required/proposed ventilation system. Thereafter, the odour control arrangements shall be implemented in accordance with the approved details.

Reason – In order to ensure that further consideration and control can be maintained over any measures required to prevent cooking odours from causing a nuisance.

8. Construction works 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 minimise the potential disturbance and impact from construction operations occurring within the site upon the amenity of the surrounding area including the nearest noise-sensitive property.

9. Unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Environmental Health Manager, all noise emissions and any monitoring shall observe and not exceed limits described in BS 5228-1:2009 Code of Practice for noise and vibration control on construction and open sites (Part 1: Noise, Table E.1, page 119 refers) during the permitted hours of construction phase.

Reason - To minimise the potential disturbance and impact from construction operations occurring within the site upon the amenity of the surrounding area including the nearest noise-sensitive property.

10. The dust control mitigation measures referred to in Appendix F of the ITP Energised report: Air Quality Impact Assessment dated 2/2/18 project number 11297 must be implemented for the construction phase of the development.

Reason – In order to ensure nuisance, road safety and health risks from dust generated on the site are kept to a minimum.

- 11. Prior to the commencement of development the following must be submitted for approval by the planning authority in consultation with the roads authority:
 - a) a plan (1:1000 min) showing the extent of the road and path network to be completed by others prior to any part of the proposed development becoming operational or brought into use;
 - b) a plan (1:500 min) is required showing a visibility splay of 4.5 metres by 70 metres at the site access, with boundary walls/fences/hedges set back

to a position behind the required visibility splay, the visibility splay clear of any obstructions over 0.6 metres in height as measured from the edge of the carriageway, and a schedule of maintenance for the splay.

c) A plan (1:500 min) showing the provision of a 3 metre wide dropped kerb crossing across the access to the development.

Thereafter the development must be completed in accordance with the approved details prior to any part of the development being occupied or brought into use.

Reason – To ensure an acceptable infrastructure is provided on the route to/from the development in the interests of road safety and to enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

12. Prior to development commencing sample panels of the proposed Vieo aluminium wall cladding, alternative wall cladding/panels, rainwater goods, aluminium roof cladding and aluminium feature flashing must all be submitted to and approved in writing by the Council as Planning Authority.

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

13. Unless otherwise agreed in writing with the Council as Planning Authority, the surface water drainage arrangements for the development, must be maintained in accordance with the "Drainage & SUDS Maintenance Plan, Barmuckity Business Part, Elgin, - Site 3B, May 2018, Issue 2" submitted on the 29th May 2018. Furthermore, evidence must be submitted to Moray Council of the 5 yearly tank interior survey and maintenance (if required) each time this is carried out as specified on Page 4 of the approved maintenance plan.

Reason – To ensure the proposed surface water drainage arrangements for the development are properly maintained so as to remain fully functional and not to contribute to flooding off or on site.

14. No work shall commence until a revised drawing scale 1:500 has been submitted to and approved in writing by the planning authority in consultation with the transportation section to show the provision of a total of 5 accessible car parking spaces to be provided within the site, within close proximity to the building entrance.

The approved details shall be fully implemented in accordance with the approved revised drawing.

Reason: To increase the provision of accessible car parking spaces within the site.

6. HOUSING LAND AUDIT 2018

A report by the Corporate Director (Economic Development, Planning and Infrastructure) summarised the housing land supply situation in Moray and asked the Committee to agree the final version of the Moray Housing Land Audit 2017. Scottish Planning Policy requires planning authorities to carry out an annual Housing Land Audit to ensure there is a 5 year effective housing land supply available at all times. The Housing Land Audit 2017 identifies that there is a 6.76 year effective supply of housing land with a total 24 year established land supply.

Following consideration, the Committee agreed:

- (i) to note the housing land supply in Moray; and
- (ii) the finalised Moray Housing Land Audit.

7. MORAY EMPLOYMENT LAND AUDIT 2018

A report by the Corporate Director (Economic Development, Planning and Infrastructure) provided the Committee with a summary of the key findings of the Moray Employment Land Audit 2018 and asked the Committee to agree the Moray Employment Land Audit 2018.

Scottish Planning Policy requires that the supply of marketable employment sites be regularly reviewed to ensure there is a sufficient supply of land to meet current and anticipated market requirements. The Employment Land Audit 2018 identifies that there is 80.62 hectares (net) of marketable/effective employment land, of which 18.07 hectares (net) is immediately available.

Following consideration, the Committee agreed:

- (i) to note the employment land supply in Moray, as summarised in Section 4 and Appendix 1 of the report; and
- (ii) the finalised Moray Employment Land Audit 2018 as set out in Appendix 2 of the report.

8. MORAY HOUSING NEED AND DEMAND ASSESSMENT 2017

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the status of the Housing Need and Demand Assessment (HNDA) and its findings.

Scottish Planning Policy requires that Local Development Plans and Local Housing Strategies are developed in tandem and that both are supported by a HNDA. The report found that the Council's HNDA was assessed as "robust and credible" on 5 April 2018.

The Committee joined the Chair in commending the Service in achieving a "robust and credible" status and thereafter agreed to note:

- (i) the "robust and credible" status of the Housing Need Demand Assessment 2017, and its key findings;
- (ii) that the "robust and credible" status of the Housing Need and Demand Assessment 2017 has been reported to Communities Committee in May 2018; and

(iii) the implications for the Local Development Plan 2020 as set out in Section 6 of the report.

9. FLOOD RISK AND DRAINAGE IMPACT ASSESSMENT FOR NEW DEVELOPMENTS SUPPLEMENTARY GUIDANCE

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to approve the content of the draft Supplementary Guidance on Flood Risk and Drainage Impact Assessment for New Developments and thereafter, agree to issue the guidance for public consultation. The Supplementary Guidance aims to improve the design and construction of new developments with regard to flood risk and drainage and provides clear advice on the flood risk and drainage factors that should be considered when planning a new development.

Following consideration, the Committee agreed:

- (i) the content of the Supplementary Guidance as set out in Appendix 1 of the report;
- (ii) that the draft Supplementary Guidance be used as a material consideration for development management purposes;
- (iii) to issue the Supplementary Guidance for public consultation for an 8 week period; and
- (iv) that consultation responses are reported to a future meeting of this Committee along with the final Flood Risk and Drainage Impact Assessment for New Developments Supplementary Guidance.

10. ALIGNING PLANNING AND ROADS CONSTRUCTION CONSENT

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of a proposal to seek to align Planning Consent and Roads Construction Consent (RCC) in circumstances where the applicant/developer agrees to this approach.

Following consideration, the Committee agreed:

- (i) to note that Designing Streets is Scotland's policy statement on street design;
- (ii) that aligning the design principles of Planning and RCC should be promoted as best practice by Moray Council in circumstances where the applicant/developer agrees to this approach and signs a Processing Agreement;
- (iii) to note that existing procedures will be reviewed to enable the consenting processes to be aligned as proposed in Appendix 1 of the report;
- (iv) to the proposed financial incentives to be offered to assist developers with the additional upfront costs of aligning consents;
- (v) to noted that regardless of an aligned process as set out above, the roads authority consultation response will state if insufficient detail is received to fix the street layout and enable a proper assessment of a planning application, allowing for a quicker turnaround time in complex planning applications;

- (vi) to instruct officers to consult with developers for a period of six weeks on the proposal and report back the responses to the next available Planning & Regulatory Services Committee; and
- (vii) a training session is arranged for Members on Designing Streets, the use of Street Engineering Reviews and Quality Audit as material planning considerations.

11. DEVELOPMENT SERVICES PERFORMANCE REPORT – HALF YEAR TO MARCH 2018

Under reference to paragraph 9 of the meeting of this Committee dated 30 May 2017, a report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the performance of the service for the period from 1 October 2017 to 31 March 2018.

At the end of the reporting period, which is the second half of 2017/18, 62.5% of the performance indicators showed good performance and the Service Plan was 83% complete.

The Committee joined the Chair in commending Development Services for the good performance indicated within the report and thereafter agreed to:

- (i) note performance against Planning and Regulatory Performance Indicators, Service Plan and Complaints to the end of March 2018 as outlined in the report;
- (ii) note the actions being taken to improve performance where required; and
- (iii) approve the proposed changes to the performance indicators which are reported to this Committee, as set out in Appendix 1 of the report.

12. QUESTION TIME

Under reference to paragraph 10 of the Minute of this Committee dated 24 April 2018, Councillor Feaver stated that it was her understanding that the Committee had agreed that a transportation statement would be included within the Kinloss Golf Course Masterplan and asked that this be reflected in the Minute.

In response, the Chair stated that the Clerk would review the webcast and amend the minute, in conjunction with Councillor Feaver, the Chair and Senior Officers, if required.

13. TREE PRESERVATION ORDERS [PARA 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to agree a series of actions to serve Tree Preservation Orders (TPOs) in response to a number of issues that have arisen.

Following consideration, the Committee agreed to serve TPOs at the locations identified at Appendices 1 and 2 of the report.

14. BREACH OF PLANNING CONTROL ENCOMPASSING LAND AT SPEYBAY [PARA 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of a breach of a planning condition on a site encompassing land at Spey Bay.

Following consideration, the Committee agreed to:

- Officers issuing a Breach of Condition Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring the developer to fully comply with Condition 6 of the planning application referred to in para 4.7 of the report in relation to the provision of an aggregate footpath; and
- (ii) authorise direct action in relation to the provision of the aggregate footpath to secure compliance with this part of the enforcement notice if it is not complied with.

15. LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD ON LAND AT ROSEISLE, MORAY [PARA 12]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) sought approval to issue a notice requiring proper maintenance of land in respect of the untidy state of the area of land in front and adjacent to a property at Roseisle, Moray which is having an adverse effect on the amenity of the neighbourhood.

Following consideration, the Committee agreed to:

- (i) the serving of an Amenity Notice requiring those parties with an interest in the site to comply with the terms of the notice by:
 - (a) forming a grass verge to the front of the property measuring 20m x 1.0m; with post and wire boundary fence to rear of grass verge along the frontage of the site and three traffic bollards within the verge to prevent vehicle overrun;
 - (b) constructing an access into the property measuring 8.0m x 1.0m with 30' splayed ends surfaced in bituminous tarmacadam; and
- (ii) grant delegated authority to the Head of Development Services, in consultation with the Chair of this Committee, to take direct action to provide the works described at Para 3(i) a), and b) in the event that the terms of the notice are not complied with by those parties with an interest in the site and to recover any costs incurred, as a result of direct action, as a civil debt.



GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE MEETING OF 18 SEPTEMBER 2018

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.
17/00120/PPP 30th January 2017

Proposed mixed use development comprising family restaurant with licensed premises and housing with associated access infrastructure and landscaping works at Elgin Auction Mart New Elgin Road Elgin Moray for Aberdeen And Northern (Estates) Ltd

Comments:

- A SITE VISIT has been carried out
- Application submitted for planning permission in principle no detailed design and site layout arrangements included
- Application is a major development as defined under the Hierarchy Regulations 2009 wherein, as a mixed-use development, the site area exceeds 2ha and more than 50 dwellings are proposed
- Advertised as a departure from the development plan
- Advertised as a development under Schedule 3 of the Development Management Regulations 2013 (in regard to proposed licenced restaurant/bar premises)
- 25 representations received
- Development located on opportunity site, Elgin OPP5 as designated in the Moray Local Development Plan 2015

Procedure:

- If minded to approve
 - \circ hearing recommended
 - developer obligations to be finalised and agreed with applicant, and thereafter completion of legal agreement required prior to issue of any formal grant of planning permission in principle in regard to developer obligation requirements towards secondary education, healthcare and transportation infrastructure

Recommendation REFUSE planning permission in principle for the following reason(s)

Notwithstanding the 'in principle' status of the application, the development is contrary to the provisions of the Moray Local Development Plan 2015 and Scottish Planning Policy whereby

 although required, a detailed Flood Risk Assessment has not been provided (Elgin OPP5 designation refers) and insufficient information is provided about the arrangements to manage and mitigate the risk of flooding, in terms of details about the extent of all proposed/required mitigation measures (which may include land raising and/or any other measures) to address all identified sources of flood risk associated with the site and demonstration that the effects of such mitigation measures as required/proposed will not exacerbate the risk of flooding whether to the development itself and to elsewhere, including property adjoining the site (Policy H1, IMP1 and Scottish Planning Policy refers).

At the time of determination and in terms of Policy IMP3, a measured impact of the development upon existing infrastructure, community facilities and/or amenity has been identified however a finalised package of developer obligations has yet to be agreed and insufficient information is available to determine whether the identified impact will be mitigated.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
10270-L(00)002	Location plan
10270-P(00)01	Site layout plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number: 17/00120/PPP

Site Address: Elgin Auction Mart New Elgin Road

Applicant Name: Aberdeen and Northern (Estates) Limited

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Location Plan



Site Location



Site layout



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From NE corner



Mid way along northern (Linkwood Road) boundary



Western part of site from existing access onto Linkwood Road



PLANNING APPLICATION: 17/00120/PPP

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 for planning permission in principle (PPP) for a mixed-use development comprising a family restaurant with licenced bar and housing together with associated access infrastructure and landscaping works at Elgin Auction Mart.
- No detailed design and site layout arrangements are provided except for an "indicative site layout plan" (drawing 10270 P(00)01 refers).
- The restaurant/bar will be sited towards the north west corner of the site and located over the existing Auction Mart premises (to be demolished).
- The restaurant/bar premises is approx. square-shaped with an approx. gross floor area of 692sq m. It will be located within an area, approx. 0.4ha, along with car parking (50 spaces), a servicing area and an outdoor seating and children's play area (although the latter is not identified on the indicative site layout plan).
- The remainder of the site will be developed for housing with a proposed mix of residential properties, both houses and flats.
- From the supporting information, 101 units of accommodation are proposed with 67 houses (16 x 2-bed and 51 x 3-bed in semi-detached and/or (short) terrace forms) and 34 flats (18 x 1-bed and 16 x 2-bed) within a mix of building types, styles and scales (1, 2 and 3-storey) including provision for affordable housing within the flatted properties.
- Two vehicle access points are proposed off Linkwood Road, one towards the north eastern corner of the site and one towards the north western corner of the site. The latter provides access to the residential development area and the restaurant/bar including its car parking and servicing areas.
- The two access points connected internally within the site together with a grid-like road pattern including three 'squares' located at some of the internal road intersections. Along the southern boundary, a "lane" will link two internal roads and a foot and cycle path connection onto Market Drive is proposed.
- Foot and cycle path arrangements are included within the internal road layout and along the Linkwood Road frontage, where bus infrastructure will be retained/provided.
- In the eastern half of the site, an area of 'open space for residential development' is
 proposed, to be enclosed by housing and the road/street pattern within the
 development. (On other supporting drawings, a SUDs basin is shown located within
 this open space area and provision for SUDS is indicated within another area of trees
 within the site towards the north-eastern corner of the site).
- The indicative layout plan indicates provision for new landscape planting within the site (but no planting specifications are included). Existing trees within the site will be removed to accommodate the development whilst trees around the perimeter of the site will be retained/protected.
- Public water supply and public foul drainage connections are proposed. Existing private drains within the Mart site will be removed/abandoned and new foul drainage will be installed discharging via new gravity drains into new foul sewers connecting into the existing combined sewer located in Linkwood Road.

- Existing surface water sewers running through the site, from approx. south to north and under the 'open space' area, will be retained. In terms of surface water arrangements, the proposed development will incorporate SUDs with surface water run-off from building roof areas, parking bays, driveways and road areas discharging to drains, filter trenches, swales and road gullies discharging via new surface water sewers into a SUDs basin located in the eastern half of the 'open space' area prior to discharge at an attenuated rate to an existing surface water sewer.
- Application accompanied by supporting documents including a Pre-application Consultation Report, Design & Access Statement, Supporting Statement, Transport Assessment (revised April 2018), Drainage Assessment, Flood Risk Assessment (revised October 2017), Sustainability Statement, Bat Survey (confidential), Tree Survey Report, Geo-environmental Desk Study, Contamination Report, and Construction Environmental Management Plan (incorporating a site waste management plan), etc.

<u>THE SITE</u>

- Approx. 3.5ha (8.6 acre) site located to the south-east of the existing A941 New Elgin Road/Linkwood Road/Edgar Road roundabout junction.
- Formerly a livestock auction mart, Elgin Auction Centre is now used for furniture/ antiques, Saturday market and car boot sales.
- The Auction Centre building has stone and render walls and pitched roofs of slate and other materials. To the north east of the buildings is a large concrete hard surfaced area (formerly covered livestock pens, now removed). There is a larger, hardcore-surfaced, parking area to the south and east of the Centre accessed from Linkwood Road. Pedestrian access to the Mart site can also be gained from New Elgin Road.
- The Centre buildings and parking areas occupy the western part of the proposed site whilst the eastern half of site is a gently undulating grassed paddock/field area, previously used for livestock attending the Mart but latterly used for horse grazing, overspill parking and other special (circus and big truck) events.
- A fence line and intermittent line of trees divide the eastern and western parts of the site.
- To the north, on the opposite side of Linkwood Road, are Linkwood Cottages, two pairs of semi-detached, 1½-storey traditional stone/slate properties.
- Land to the west and behind the Cottages has been cleared, formerly the Flemings Sawmill/Morayshire Tractors site but now advertised as a 6 acre development site.
- To east, south and west, the site is adjoined by existing housing development on Linkwood Road, Milnefield Avenue, Market Drive and New Elgin Road, a mix of 1, 1½ and 2-storey dwellings and flatted properties of both traditional and/or more modern styles of construction. There is intermittent growth of trees and shrubs together with fencing and walls around the site boundaries.
- To the west, beyond New Elgin Road, is Doocot Park, B&Q, ASDA, Springfield Retail Park and other commercial/industrial premises located along Edgar Road.
- The site is designated as an opportunity site, Elgin OPP5 in adopted Moray Local Development Plan (MLDP) 2015.

<u>HISTORY</u>

14 March 2017 - Screening Opinion adopted under the (then current) Environmental Impact Assessment Regulations 2011 (EIA) for this proposed mixed-use development where, after taking account of the characteristics and location of the development and the

characteristics of the potential impact associated with this development, the proposal, as a 'Schedule 2 development' would not be likely to result in significant environmental effects, hence the proposal is not an EIA development and formal EIA procedures are not required.

16/01121/PE - Proposed mixed-use development comprising family restaurant with licensed premises and housing with associated access infrastructure and landscaping works at Elgin Auction Mart - following a pre-application meeting, response (9 November 2016) provides initial feedback on the proposal, including comments from consultees, information requirements expected to accompany any formal application for planning permission and recommendations for further pre-application consultation with consultees.

16/01120/PAN - Proposal of Application Notice (PAN) for proposed mixed use development comprising public house/restaurant, care home and housing with associated access infrastructure and landscaping works at Elgin Auction Mart – response (28 July 2016) confirms the requirements for consultation with the local community.

Thereafter, following consideration of the PAN and in terms of matter(s) that should be drawn to the applicant's attention and taken into account in the development of the application, the Council's Planning & Regulatory Services Committee (on 15 September 2016) advised that consideration should be given to improving the connectivity between the two proposed entrances and the provision of an improved cycle/pedestrian access to the site from Milnefield Avenue/Market Drive.

10/02024/APP - Erection of supermarket (Class 1) petrol filling station access car parking landscaping and associated works at Elgin Auction Mart – application withdrawn prior to determination.

03/00324/FUL – Outline application to redevelop existing auction mart to form non-food retail warehousing and relocated auction rooms, including market stalls and car boot sales with associated access, car parking, servicing and landscaping at Elgin Auction Mart. Following a Public Local Inquiry against the non-determination of this application, appeal dismissed by formal decision letter dated 18 May 2005.

99/00299/FUL – Renewal of temporary consent for additional use of site for market stalls and car boot sales, Elgin Auction Mart – approved 26 May 1999 subject to conditions regarding use as a Saturday only indoor market/car boot sales use/indoor market not to exceed 100 stalls including 25 craft stalls and car boot sales not to exceed 101 pitches.

96/01979/FUL – Additional use for market stalls and car boot sales, Elgin Auction Mart – approved 5 March 1997 with temporary permission expiring 31 March 1999 and subject to conditions similar to application 99/00299/FUL.

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

- Advertised as a departure from the development plan Elgin
- Advertised as a "Schedule 3" development (in relation to proposed licensed premises)

CONSULTATIONS

Building Standards - Building Warrant required.

Planning & Development - The Auction Mart site is identified as Elgin OPP5 and considered suitable for business uses with any retail uses subject to Policy R2. From Policy ED5, any uses identified for the opportunity site should be viewed as illustrative only, and not a definitive list of acceptable activities. Any new proposal should be compatible with surrounding uses. Neighbouring uses to the south are primarily residential and uses to the north and west are retail and commercial based. The restaurant and residential use as proposed are compatible with neighbouring uses.

Policy R2 applies to the restaurant/bar element of the proposal due to the anticipated footfall that would be generated. Based upon the submitted sequential assessment, and after consideration of additional information, the proposal has met the sequential approach required by Policy R2. The additional information confirms that potential town centre, edge of town centre and other commercial centre sites are either not available or too small, and do not meet the minimum requirements for the proposal. The difficulties identified over site assembly, development constraints (which limit the developable area and site layout of site), site availability and surrounding uses mean that other Elgin opportunity sites can also be dismissed.

It is not appropriate to seek a formal impact assessment for the proposed restaurant/bar with the proposed floor area, 692sq m being less than one-third of the threshold identified for undertaking such an assessment within Scottish Planning Policy (SPP). A significant proportion of trade is anticipated from those living and working in the area and given the family-orientated nature of the proposal, it is more likely to draw trade from similar offers located outwith the town centre. The restaurants, cafes and bars in Elgin town centre are not comparable to the use being proposed nor directly marketed as a family destination. Limited information is available about the turnover of restaurants that the proposal would compete with and it would be unusual to undertake a retail impact-type analysis for this type of proposal.

In comparison to earlier layouts, the road layout has been improved by creating a through road between the two access junctions but there are fundamental aspects of the indicative layout that would not meet the requirements of Policy PP3, and likely to be "red" in 'quality audit' terms taking into account:

- parking, which is primarily at the front of properties and visually dominates the development, and blocks of spaces should be broken up with landscaping, including parking for the restaurant;
- open space (in terms of quantity and quality) where although the main area is welloverlooked and accessible to most of the housing, it's function together with the definition between public and private space is unclear;
- provision for pedestrian and cycle access, to be provided to the western edge of the site adjacent to the restaurant to reflect the desire lines from the Edgar Road retail area and the paths through Doocot Park;
- property must be orientated to face onto Linkwood Road and/or have double frontages, and buildings on key corners must be designed to "turn a corner";
- along the Linkwood Road, avenue planting must be provided to add character to the development and include pedestrian access to/from bus stops; and
- in terms of character and identity, reference to the historic use of the site as a Mart within the design of the restaurant and introduction of public art within the open space.

The proposal must also comply with Policy H1, H8, H9, PP2, EP7, EP11 and E5.

Developer Obligations – Developer obligations (revised 27 July 2018) are required to mitigate the impact of the proposed development upon secondary education, healthcare (towards extension of Elgin Community Surgery and 5 additional dental chairs) and transportation (towards identified Elgin Transport Strategy (ETS) interventions at specified locations to mitigate the cumulative impact of the development on the transport network).

For residential development, a maximum cap of £6,500 per residential unit is applied (Supplementary Guidance: Developer Obligations, adopted March 2018 refers). As the development consists of residential and commercial units, traffic has been aggregated to determine the impact and split, proportionately, based on the PM peak traffic rates for residential (with cap applied) and commercial units (with cap not applied). The District Valuer will determine the value of the land required for junction improvements, to be deducted from the total Transportation contribution.

Environmental Health – No objection subject to a condition requiring a noise impact assessment detailing all significant noise sources associated with the construction and operational phases of the development. Informatives are also recommended requiring information on the control of cooking odours from the proposed kitchen ventilation system, the extent of any artificial lighting, and suitable dust mitigation measures to prevent nuisance arising to the existing adjacent amenity during the construction phase. Early discussion is also recommended regarding internal and external layout plans to ensure compliance with Food Hygiene (Scotland) Regulations 2006, the Health and Safety at Work etc Act 1974 and associated regulations.

Environmental Health Contaminated Land – No objection subject to condition requiring an assessment of the suitability of the site for the proposed use in respect of possible land contamination, to include details of the assessment methodology, reporting on investigation works once completed, and details for remediation (including mitigation measures) and validation to ensure suitability of site, where required.

Environmental Protection/Moray Access Manager - No objection. The inclusion of a 3m wide cycle path provided along the Linkwood Road site frontage is commended. A suitable crossing over New Elgin Road should be included to link with cycle paths in Dovecot Park and Core Path EG09. The current crossing at the roundabout may require to be upgraded or a new crossing provided (i.e. Toucan crossing), to be determined by the Transportation Manager.

Transportation Manager - No objections subject to informatives and conditions as recommended including a detailed site layout plan showing all roads, footways, cycle paths, road verges and car parking inclusive of all internal junction visibility splays and forward visibility requirements; area to be safeguarded for future road improvements to Linkwood Road (as identified) together with 3m wide cycle path along the Linkwood Road and New Elgin Road site frontages and provision for a replacement bus stop and new bus shelter on Linkwood Road; internal roads and provision of foot and cycle path to be constructed up to the site boundary at Market Drive, capable of future connection to Market Drive; provision of paths onto New Elgin Road, Linkwood Road and through open space area within the site (as identified); detailed design of access junctions onto Linkwood Road including visibility splays, walls and landscaping set back to accommodate the visibility splays, etc.; swept path analysis of the access junctions and internal road

network (to accommodate refuse collection and delivery vehicles; submission of updated Transport Assessment (TA) or Transport Assessment Addendum to reflect the detailed development proposals and to an agreed scope; submission of Construction Traffic Management Plan to include information (as specified) and details of any temporary construction access; specifications regarding permitted height of boundary fences, hedges, walls or any other obstruction relative to public roads and visibility splay including forward visibility splays within the development; for all elements of the development, parking to be provided in accordance with Council parking standards and include provision for secure cycle parking and facilities for electric vehicle charging and retention; and improvement (bus flag and shelter) of the existing bus stop on Linkwood Road.

The indicative site layout plan (10270 P(00)01) differs from the site layout plan (10270 P (00)01_B) submitted as part of the TA (revised) which indicates a pedestrian link to New Elgin Road to the west of the site and the internal road and footpath either built up or connected to the boundary of the site with Market Drive. According to the applicant, an area of land beyond the end of Market Drive may be third party land but Market Drive is an adopted public road and the very narrow area beyond the carriageway (less than 2m at this location) is public road verge. The road as constructed is immediately abutted by a boundary fence for the Auction Mark site.

The indicative site layout plan shows a lane connecting to a square connecting to the site boundary at Market Drive. As the lane and square potentially connect to public areas, they should be designed to be suitable for future adoption by the Council, as Roads Authority, requiring an additional footway and revised road geometry to accommodate passing and turning vehicles along with suitable road widths and corner radii.

Notwithstanding the TA details, the pub/restaurant trip generation rates are not agreed for use within any subsequent application but are sufficient for planning permission in principle purposes. The detailed assessment of weekday PM peak trips for the pub/restaurant should be based on the 'peak' values from 1600 – 1800hrs not 'average' values for 1600-1700 and 1700-1800 time-periods as included within the TA. The revised trip generation rates and predicted levels of traffic as estimated by Moray Council Transportation should be used in any subsequent assessment including calculation of developer obligations.

The Elgin Transport Strategy (ETS) was approved by the Moray Council on 9th August 2017 and includes proposals in the immediate vicinity of the site including a new road link from Ashgrove Road to Maisondieu Road with traffic signal-controlled junctions, A941/Edgar Road junction improvements and Linkwood Road cycle facilities. To accommodate the improvements, which may include widening to facilitate the provision of lanes for turning traffic, pedestrian islands and additional lanes at the proposed junction improvements, land along the A941 New Elgin Road and Linkwood Road frontages of the site is required. The value of the land identified as being required to assist in the provision of the improvements will be determined through the District Valuer (awaited) and included in the assessment of developer obligations for off-site transportation measures.

In terms of off-site transportation mitigation measures (developer obligations), the TA demonstrates and acknowledges that the development will have an impact on off-site junctions with Elgin and confirms a willingness to address the impacts including the provision of developer obligations associated with the cumulative impact of the development.

Housing Strategy & Development Manager – No objections subject to conditions as recommended regarding affordable and accessible housing to be provided within the development. Policy H8 requires that 25% of units are provided for affordable housing (and from the Supplementary Guidance: Affordable Housing, the number of affordable housing units is to be rounded up). The applicant must agree the housing mix and arrangements for delivery of the affordable housing with the Head of Housing and Property prior to starting any housing units on the site. Policy H9 requires that 10% of private sector units are built to wheelchair accessible standards. The Supplementary Guidance: Accessible Housing requires that no less than half of the private sector wheelchair accessible units are built as single storey units. To meet Policy H9, the proposals to provide accessible housing must include a Compliance Statement and detailed plans

Health & Safety Executive (HSE) – Does not advise against the granting of planning permission subject to a condition requiring a total of no more than 30 dwelling units, at a housing density of no more than 40 dwelling units per hectare, located wholly or partly within the middle zone boundary of the HSE consultation distance of the Gleaner Oils Limited site. Of those dwellings, not more than 2 may be located wholly or partly within the inner zone.

Comment (PO): In response to approaches from the applicant direct, in September 2016 and February 2017, HSE advised against the granting of planning permission. However, for the latter, HSE advised that they would not advise against the granting of planning permission if changes were made to the layout i.e. if significant housing were prevented from being built in the inner consultation zone and only a limited number of houses, at a low density, were built in the middle consultation zone around the hazardous installation, Gleaner Oils. In May 2017, and based on a (revised) indicative site layout (10270 P(00) 01_A), HSE advised that, to maintain the separation of incompatible development from the major hazard, a total of 30 dwellings at a density no greater than 40 dwellings per hectare within the middle zone (including 2 units within the inner zone) and all remaining dwellings located within or outwith the outer zone would be taken as the limit at which HSE would not advise against the granting of planning permission for housing at the site.

Scottish Natural Heritage – No comments on the proposal. The applicant's supporting statement refers to a bat survey having been completed with no signs of bats found.

Aberdeenshire Archaeology Services – No objection subject to a condition requiring a photographic survey of the Auction Mart building which dates, in part, from the 19th and 20th century to ensure a historic record of the building.

SEPA – Objection maintained after review of additional information provided (including the Flood Risk Assessment (FRA) (revised) on the grounds of lack of information and that it may place buildings and persons at flood risk contrary to SPP. In summary, insufficient information has been provided to address previous concerns and demonstrate that any proposed mitigation measures will not increase flood risk elsewhere. Further information is required to demonstrate that the proposed mitigation measures at the site, for all sources of flooding, will not increase flood risk elsewhere.

From hydrological modelling in the Tyock Burn (Moray Council, April 2017) the flood extents show that the site is outwith the modelled flood extent for the 200-year event, and no flow path is predicted from upstream flooding to the site. However, in the 200 year plus climate change event, floodwater is predicted to flow from Linkwood Road into the site. The FRA highlights that the modelled flood extents, when compared with anecdotal evidence, were smaller than the 2002 and 2014 floods, thought to be due to a reduction in flood risk from backwater effects in the River Lossie following the completion of the Elgin Flood Alleviation Scheme (FAS). However, the study does not consider flood risk from pluvial sources, which was thought to be a contributing factor in previous events.

The site appears to be outwith the modelled 200-year fluvial flood extent. The FRA proposes to mitigate against residual fluvial risk and mitigate against surface water flooding by land raising but it has not been assessed in the FRA, hence insufficient information had been provided to address SEPA's concerns and demonstrate that any proposed mitigation measures will not increase flood risk elsewhere.

As part of the Council's Surface Water Management Plan (SWMP) there may be options to address surface water flooding in Elgin. The Council highlights that any surface water schemes developed through the SWMP are to manage existing surface water issues and not to make land more developable. SEPA support Moray Council's position and agree that appropriate assessments and mitigation measures are required by the developers of this site to ensure that flood risk to the site is appropriately managed, and flood risk elsewhere is not increased as a result.

The application site lies within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent as shown on SEPA Flood Maps and may therefore be at medium to high risk of surface water flooding. From SPP (paragraph 255), built development should not take place on the functional floodplain. The FRA intentions to mitigate flood risk at the site through land raising has the potential to increase flood risk to adjacent areas, contrary to SPP principles. No information has been provided regarding compensatory storage, or how the potential increased risk elsewhere will be mitigated. Further information is required to demonstrate that the proposed mitigation measures at the site, such as land raising, will not increase flood risk elsewhere.

The site is within the area of benefit for the completed and operational Elgin FAS and will be afforded protection by that scheme up to the estimated 1 in 200-year event from fluvial flooding from the River Lossie and associated flooding from the Tyock Burn. Moray Flood Risk Management (MFRM) highlight that there is still an existing fluvial flood risk at the site from the Tyock Burn. The FRA highlights that the site may also be at risk from exceedance events or blockage of the Tyock Burn culvert, and surface water flooding at the site may also be due to interaction with fluvial sources. Further information is required regarding surface water flooding at the site and it's interaction with fluvial sources.

Notwithstanding the objection, planning conditions are recommended requiring detailed surface water drainage proposals and a construction environmental management plan (CEMP) (and if conditions not attached then treat response as an objection).

The Drainage Assessment (DA) confirms that the SUDS proposals are designed in accordance with the Simple Index Approach set out in CIRIA SUDS Manual C753. However, SUDS features do not appear on the indicative site layout provided, in particular the SUDs pond area is labelled as 'open space for residential development', and this requires clarification. In addition, the drainage drawing appears to show most roads draining via the filter drains not the swale, which only appears to serve an adjacent section of road, and this requires clarification.

The CEMP should be developed to prevent potential pollution of the environment and to ensure the effective management of water and materials including soil and waste on the

site as well as addressing any site preparation, demolition and any agreed land raising. **Comment (PO):** The response also provides regulatory advice for the applicant including potential authorisation requirement for any proposed engineering works within the water environment, exemption from licensing for management of surplus peat or soils, permits for any proposed crushing or screening, and other environmental licences may be required for any installations or processes. Details of regulatory requirements and good practice advice is available on SEPA's website or by contacting the local SEPA office.

Moray Flood Risk Management – Objection maintained as the FRA (revised) does not answer the points raised in earlier consultation response i.e. as submitted. The FRA is not based on hydrology and hydraulic modelling, as is common practice, and it does not follow SEPA's guidance for FRA's. It concludes that the proposed land raising would mitigate the existing surface water (and other) flood risk to the development site. This may increase flood risk to neighbouring properties and constitute land raising within the functional floodplain with no allowance made for compensatory storage. In addition, there are no proposals to mitigate any increase in flood risk associated with the development elsewhere including the existing fluvial flood risk from the Tyock Burn, or to mitigate the increase in flood risk from surface water that the land raising would cause.

The submitted DIA provides an outline of a proposed drainage solution. Further details are required to demonstrate that the SUDs has been designed appropriately and are suitable for the site, including the sizing of the swale, filter trenches and ponds.

At the pre-application stage, it was made clear that the details of the proposed mitigation(s) would be required at the PPP stage, but the required level of detailed information has not been provided.

Comment (PO): During consideration of the application, the applicant/agent was advised of the Council's SWMP, as agreed by the Council's Economic Development and Infrastructure Committee in January 2018, includes proposals for detailed optioneering and appraisal of viability for several options including "Elgin: New Elgin Road/Linkwood Road". This will be pursued from 2018, for implementation in the next Flood Risk Management Strategy cycle for 2022 – 2028, but it is dependent on funding, which is not guaranteed. In addition, advice was given that any surface water schemes which the Council put in place will be to tackle surface water flooding, not to make land more developable. Accordingly, any developer was advised that they would still need to go through the planning application process and submit appropriate FRAs and DAs for approval and put in place appropriate mitigation measures for their development.

Furthermore, the applicant's consultant engineer was advised that surface water modelling undertaken for the SWMP was 'high level', to prioritise further investigations. It did not consider fluvial flooding or interaction with the Tyock Burn and River Lossie, or Scottish Water infrastructure. Any proposed development in the Linkwood area would therefore require modelling to consider all sources of flooding and use of flood data taken from the high-level surface water modelling intended for the SWMP would not be fit for purpose for use for the proposed development at the Mart.

In terms of the Council's responsibility for providing flood protection, MFRM advise that the Council does have powers to provide protection if it is feasible to do so and, where it does develop a scheme, this would be to provide protection to existing property, not to facilitate new development.

Scottish Water - No objection but this does not confirm that the proposed development can currently be serviced. There is currently insufficient capacity in the Glenlatterach Water Treatment Works and sufficient capacity in the Moray West Waste Water Treatment works to service the development. As Scottish Water are unable to reserve capacity at the treatment works, the applicant is advised to complete a Pre-Development Enquiry (PDE) Form and submit it directly to Scottish Water and once a formal connection application is submitted to Scottish Water, after full planning permission has been granted, Scottish Water will review the availability of capacity at that time and advise accordingly.

According to records, Scottish Water advise that the development may impact on existing Scottish Water assets i.e. surface water sewers running through the site and a rising sewer main in close proximity to the site boundary.

For reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water advise that they do not normally accept any surface water connections into a combined sewer system other than in limited exceptional circumstances, for example for brownfield sites but only after significant justification. To avoid costs and delays where a surface water discharge to a combined sewer system is anticipated, early contact with Scottish Water is advised with evidence to support the intended drainage plan prior to making any formal connection request.

Comment (PO): The consultation response also sets out various "next steps" for the applicant. Along with their response, Scottish Water has advised that as part of the drainage design surface water should utilise SUDS and attenuation onsite, and that no surface water will be permitted to enter the combined system. They also advise that due to the flooding issues, a Drainage Impact Assessment (DIA) is required before further comment can be made, and that the developer should contact Scottish Water when ready to proceed. Scottish Water has recently advised that they cannot approve surface water drainage to the public system and no DIA has been received for the site.

Scottish Water has also provided a copy of their PDE response issued to the applicant in February 2016. This advises that no build over the existing sewer infrastructure will be permitted; a DIA is required to assess the impact of the proposed development on the surrounding network and known flooding issues in the immediate vicinity of New Elgin Road, Edgar Road and Linkwood Road; and surface water should discharge to SUDs on site and if a SUDS outlet is necessary then, it should be at an attenuated discharge of 44I/s to the existing surface water sewer at an agreed connection point, and foul and surface water should be separated within the development.

Elgin Community Council – No response at time of report.

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).

A total of 25 representations have been received from





The main points of the representations include:

- affecting natural environment
- dust
- height of proposed development
- litter
- over-development of site
- poor design

Comment (PO): When submitting a representation online, contributors can select comments from a pre-defined list. Some representations may include additional remarks about the selected comment (as included below) but within other online representations, further comment may not be provided, meaning it is not always possible to give fullest consideration of the selected comment.

FLOODING including land raising

- other than the obvious increase in fluvial flooding, raising levels within the site would surely cause damage to neighbouring residential and business properties, leave homes on New Elgin Rd, Market Drive, Milnefield Avenue and Linkwood Road at greater risk of flooding and cause issues to neighbouring properties not previously affected.
- raising ground/site levels within the Mart site may stop the new development from flooding but in doing so, it would place the surrounding area at even greater risk of flooding, which is totally unacceptable.
- the roundabout and Linkwood Road flood badly in heavy rain and houses have been affected. If the developer builds up the site then surely, and yet again, the area is more at risk of flooding.
- irrespective of 'estimated' 1 in 100, or 1 in 200 year 'events', existing residents have been flooded out of their homes three times within the last 20 – 23 years, as a direct result of the Tyock Burn and it's 'culvert'. The Tyock Burn was not justified on economic grounds and taken out of the final Elgin FAS.

- despite the culvert being twice cleared out by the Council after a 2007 flood and a sediment trap built up-stream, residential and business property were flooded on 11 August 2014.
- the documentation makes numerous mentions of land raising to combat flood risks to new property. This will undoubtedly impact on existing properties, placing them in a valley between the new development and the raised B&Q premises.
- whilst the Elgin FAS reduces the impact of flooding from the River Lossie and Tyock culvert, it does not address the issue of surface water flooding which causes risk to property and caused property to flood in 2014.
- although flood risk might be addressed in 2028, that is 11 years away and no compensation for events that might happen between now and then.
- the proposal would make any flood event substantially worse. Options to mitigate the risk to the development site, which involve pumping surface water into the Tyock Burn and/or raising the site levels, are wholly unsatisfactory and will greatly add to the devastation caused by flooding.
- at the very minimum, the requirements should be to complete the unfinished Tyock Burn element of the Elgin FAS, remove and securely seal the manhole access point on the culvert, and improve site surface water management to an already struggling and problematic combined waste/surface water drainage system.
- raising site levels leaves homes on New Elgin Road, Market Drive and Linkwood Road at a far greater risk of flooding as the area already struggles with the management and capacity of a combined waste/surface water drainage system.
- the raised ground level of the development area would increase the risk of flooding for low-lying areas at the bottom of New Elgin Road and Linkwood Road. Any construction must ensure that it in no way increases the risk of flooding for the adjacent area and, as it stands, the current plan has not considered this.
- the mart site is low lying, with a high-water table. With heavy rain, the water in the ground rises, the surface water drains cannot cope with the sheer volume of water, New Elgin Road runs like a river, pedestrians end up soaked from head to toe with the traffic not slowing down and the site and the surrounding areas become flooded including Linkwood Road, New Elgin Road and Market Drive, etc.
- raising the ground will surely just send excess water downwards towards property on Linkwood Road and as the B&Q drainage area is notorious for reaching capacity it too would no doubt affect Linkwood Road properties, all of which is unacceptable without stringent water drainage measures being put in place.
- the Elgin Flood Relief Scheme (sic) may have addressed the problem of the River Lossie overflowing, and of surface water drainage, but there remains the problem of underground water because the bed of an ancient loch lies a few metres below the ground surface (refer to available maps for details).
- during times of heavy rainfall (as in 2002), underground water flows into the Tyock Burn and if congested, the water rises up flooding Edgar Road and into property, including those on Market Drive which lie below the level of Mart.
- any building work restricting the natural flow of underground water towards the Tyock Burn has a greater risk of excess water rising up into property during the heavy rainfall.
- the existing drains are unable to cope with the demand placed on them at times of excessive rainfall including the drain at the bottom of Market Drive where water backs up and gushes out towards property.
- the existing drainage system is inadequate in terms of capacity, is unable to cope with the existing demands placed upon it and has failed during previous flood incidents.

- in 2014 properties on Market Drive and Linkwood Road were flooded, whether caused by interference of the underground streams during demolition and site clearance or poorly maintained street drains is uncertain, but the risk of flooding remains.
- the greatest risk is proposed by flooding both over ground and a rise in the water table, 2m below the ground or much less in some parts of Market Drive. During short duration heavy rainfall this may cause a shift in the water table.
- the Elgin FAS does not address the fact that the Mart site is low lying and at times of heavy rain ground water rises and surface drains are inadequate.
- there is no evidence that the Elgin FAS works and development on this, one of the lowest areas of Elgin, is extremely likely to flood.
- object to the development without major remedial work being done by Scottish Water to up-grade their drainage system in the surrounding area.
- development should not take place as it would increase the possibility of flood risk at New Elgin Road, a recognised surface water "hotspot".
- before any new developments are approved, priority should be given to ensuring that existing properties are protected from future flood risks and not put in further danger.
- whilst those creating the new building have a choice of taking a risk, existing residents have no choice about being exposed to an exacerbated risk of flooding.
- object unless further plans can offer actual relief from flooding issues. Please confirm that drainage and potential flooding risks have been alleviated and provide supporting evidence. Without a guarantee that flooding will not be a future problem, erecting new homes is not the answer.

Comment (PO): The representations on flooding (and drainage) include comments and opinions about sources and impacts of flooding including those from contributors who have either witnessed or experienced flooding on the site or at property located on Linkwood Road, Market Drive and New Elgin Road, etc. Whereas the Elgin FAS has mitigated the risk of flooding to the site from the River Lossie, for events up to but not exceeding the Elgin FAS design standard, the representations highlight other flood sources including the Tyock Burn and culvert, ground water and the capacity of existing surface water drainage infrastructure being unable to cope during short-term, heavy rainfall periods. Most representations consider that the proposal to raise site levels as part of the development will displace flood water (irrespective of its source) thus increasing the risk of flooding to the surrounding area including neighbouring property. The representations consider that before any new development is allowed, sufficient protection should first be afforded to existing properties.

Whilst acknowledging that it may increase flood risk to neighbouring property, the FRA proposes land raising within the site to address most sources of flooding including residual fluvial flooding (for events greater than the Elgin FAS design standard) and other minor potential flood sources which are specifically defined in the FRA although it does identify flood sources/risks associated with infrastructure failure, ground water, surface overland flows and from sewers. The FRA outlines a strategy to address flood risk and lacks sufficient information to demonstrate, for the purposes of compliance with Policy EP7 and SSP, the extent and effect of land raising both on and off the site, and whether or not this measure, on its own or in conjunction with any other required/proposed mitigation, will exacerbate the risk of flooding to the development and the surrounding area.

The FRA also refers to the Council's forthcoming SWMP investigations, as agreed by the Economic Development & Infrastructure Committee, January 2018 refer. This includes an option to investigate the identified 'hotspot' i.e. "Elgin: New Elgin Road/Linkwood Road" however finance and delivery of the option (once measures are identified/agreed) are not guaranteed. The purpose of the Plan is to address surface water flooding to existing

property rather than promote new development. Although aware of the current lack of information within the FRA and the time-scale for the Council's proposed investigations, no further submissions have been presented by the applicant to address the objections from consultees or identified in the representations or to mitigate the risk and impact from all sources of flooding arising both and from their development.

COMPENSATION

- If despite being aware of the facts, risks and form of flooding are considered worth taking, adequate compensation must be guaranteed for those who suffer adverse consequences in the future from developments that disrupt the local hydrology.
- raising ground levels to mitigate flood risk would displace flood water into the surrounding houses putting them at jeopardy. This is totally ridiculous and noncompliant with SPP7. The proposal constitutes a piecemeal development on functional flood plain, it impacts on storage capacity and land-raising would negatively impact on surrounding properties. A financial guarantee from the developer, site owner and the Council is required to indemnify individuals against this risk.

Comment (PO): SPP7 (Planning and Flooding) has been replaced by SPP (2014). Issues regarding compensation, and requirements for financial guarantees and personal indemnification are not material planning considerations. In planning terms and to be acceptable, development located in an area at risk of flooding is required to demonstrate that it will not exacerbate the risk of flooding both to the development itself and the surrounding area (Policy EP7 and SPP refers). Notwithstanding the FRA as submitted and mitigation involving raising land levels, the FRA lacks information to demonstrate that these requirements have been met (as also acknowledged by SEPA and MFRM).

Following completion and operation of the Elgin FAS, the site is outwith the functional floodplain for a 1 in 200-year fluvial flood event, and where development is so located, the FRA notes that land raising would not displace fluvial floodwater nor conflict with SPP. However, the FRA proposes land raising to address residual fluvial flood events exceeding the 1 in 200 year and Elgin FAS design standard and other flood sources. As advised by MFRM and SEPA, this has the potential to increase flood risk to adjacent areas, contrary to SPP principles. The FRA is not supported by sufficient information to address the extent and effects of the proposed land raising operations and demonstrate that it does conflict with local and national flood policy including Policy EP7 and SPP.

TRAFFIC AND ACCESS

- the two proposed road accesses to the development will add to an already very busy traffic congested Linkwood Road.
- additional housing will result in even more traffic using Linkwood Road especially at the roundabout which already sees a high volume of traffic, making it a horrendous place to cross at the best of times. New Elgin Road is a nightmare at peak times and the situation will only be aggravated by even more traffic at the roundabout. With the new development, increased traffic flow will descend on the roundabout. What is going to be put in place to make the roundabout safer for pedestrians and road users?
- with existing traffic levels on Linkwood Road, trying to park in the driveways of property is already an absolute nightmare owing to inconsiderate/impatient road users. With increased traffic flows, including HGVs and on-road parking on a narrow road, will the road be widened or upgraded?
- in terms of road access and road safety, Linkwood Road is one of the busiest roads within Elgin leading to the new houses on Reiket Lane and new development proposed beyond Linkwood Distillery including a new village, primary school and sports centre.

- 67 houses, 34 flats and a licenced restaurant will inevitably lead to a great increase in traffic along Linkwood Road, which is congested, used as a rat run during rush hour periods and has a history of accidents including damage to property and injury to pedestrians. Any increase in traffic will increase the level of danger on this road, which is unacceptable.
- if the development is allowed, greater consideration must be given to pedestrian and public safety along Linkwood Road and at the roundabout. A speed limit appropriate to a residential area along Linkwood Road and a pedestrian crossing at the roundabout should be the bare minimum to make this development acceptable.
- the ASDA roundabout is an extremely busy roundabout. This proposal will add to traffic using this junction, which will also be subject to further development, including 2500 homes to the south of Elgin. High vehicle usage would endanger pedestrians from this proposed development at the roundabout intersection. Will this be mitigated?
- there appears to be no plan to increase capacity to address the high vehicle impact. Granting permission for this development with its extra cars during and following the construction of buildings would only exacerbate this problem.
- in terms of road infrastructure, development should not take place as it would increase the volume of traffic onto an already congested road network.

Comment (PO): The existing Mart takes vehicle access from Linkwood Road and reflecting the requirements of the Elgin OPP5 designation, the development will be accessed from Linkwood Road by two access junctions. Pedestrian and cycle access links between the site and Market Drive and New Elgin Road are also proposed/required. In terms of road safety or traffic generation and after consideration of the TA, which acknowledges that the development will have an impact of off-site road junctions including the A941 New Elgin Road/Edgar Road/Linkwood Road roundabout (Elgin TSP31), and subject to conditions and obligations as recommended, the Transportation Manager has not objected to the development in terms of the proposed access arrangements and/or the impact of the development upon the surrounding road network.

As approved in August 2017, the Elgin Transport Strategy (ETS) identifies proposals (interventions) in the vicinity of the site, including improvement of Linkwood Road and the identified Elgin TSP31 roundabout junction, and provision of cycling facilities. The improvements include provision for a cycle path; maintaining/up grading public transport infrastructure; widening of the road to provide lanes for turning traffic; pedestrian islands; and additional lanes at the identified junction as well as it's up grading to a signal-controlled junction. To achieve these improvements, land along New Elgin Road and Linkwood Road frontages of the site will be safeguarded as part of the overall development of the site. Development obligations have been identified to mitigate (cumulative) transport impacts of the development on the wider road network, including the identified junction.

FOOTPATH ACCESS TO/FROM MARKET DRIVE

- proposed footpath is unnecessary, and it would disrupt a quiet residential cul-de-sac area with increased footfall especially from customers going to/from the restaurant.
- there would be a danger to life due to limited vision of pedestrians from driveways and vehicles entering/exiting property in Market Drive.
- this route is not needed as there is already adequate pedestrian access to the development via the cutting from Market Drive or the existing access from Main Street.
- assurance sought that there would be absolutely no vehicular or pedestrian access to/from the development and Market Drive and Milnefield Avenue, both of which are narrow and congested on refuse collection days.

Comment (PO): No assurance can be given because the Elgin OPP5 designation and the

applicant's indicative layout plans (including that within the TA) provide for a pedestrian link between the Market Drive cul-de-sac and the site. This provision also reflects the views of the Planning & Regulatory Services Committee during their pre-application consideration of the proposal (16/01120/PAN refers). The Transportation Manager has not objected to the inclusion of such a link in terms of road and pedestrian safety. To reflect details included in the TA, the internal road layout requires to be taken to the boundary of the site so that it is capable of becoming a road link in the future.

FENCING

 fencing along edge of property and across Market Drive was placed by original developers and is the joint responsibility of adjoining residents including its maintenance who do not want this fence to be damaged or removed. It is there for privacy and security and it is important that the fence remains intact to prevent access into Market Drive from the Mart.

Comment (PO): Irrespective of evidence to confirm the support from "adjoining residents" to support the contributors remarks, matters about responsibilities for fencing require separate consideration matter from planning considerations. The Elgin OPP5 designation requires provision for a pedestrian link to be provided between the site and Market Drive and this is included on the indicative site layout drawing. It's provision will enhance place making considerations regarding connectivity and permeability to/from the site and the wider area.

NEED FOR MORE HOUSING

• does Elgin really need more housing and the loss of another green field area? **Comment (PO):** The green field/paddock forming part of the site is not specifically designated as open space within the MLDP2015. As identified, the field is part of an opportunity designation, Elgin OPP5 which does not preclude the loss of this green space during the redevelopment of the site, although from Policy E5 as applied to residential development, open space provision is required. The indicative layout plan suggests that some but not all of the existing paddock area will be used for open space.

In terms of the supply of housing land, the site is not specifically designated for housing. As an opportunity site, the Elgin OPP5 designation indicates the site to be suitable for business use but other uses can be considered and here, housing would be compatible with the surrounding residential use to the east, south and west of the site. As a "windfall site" (Policy H1 refers), the Housing Land Audit 2018 advises that such sites can make a significant contribution to housing land supply and although a 5-year effective land supply (minimum) can be demonstrated, to satisfy SPP requirements, neither SPP nor the Audit preclude the supply and provision of additional housing sites such as at the Auction Mart.

PROXIMITY TO NOTIFIABLE HAZARDOUS SUBSTANCE INSTALLATION

- Gleaner Oils is a blast zone. As there are already too many homes within this area, would it not be better to keep this site as a green field?
- HSE consider that the development is within the consultation distance of a major hazard site. They advise against granting planning permission on safety grounds. It would be negligent for the Council to grant permission in light of this advice and it would render their public indemnity void.

Comment (PO): Based on the quantity of LPG storage, the site of Gleaner Oils Ltd is identified, in HSE terms, as a notifiable hazardous substance installation. Proximity to such an installation does not preclude development although for public safety reasons, the presence of the installation may inform the location and amount of new development that can be accommodated. Matters about public indemnity are not a material consideration

upon which to determine an application.

The contributor's comments that HSE advise against granting permission on safety grounds is based upon an initial appraisal of the development. However, this is not HSE's final comments, as later advised to the Council, as Planning Authority wherein they no longer advise against the granting of permission in public safety terms. This is subject to certain changes being made within any finalised layout for the development to limit the density and number of new houses located within the inner and middle consultation zones which surround the installation. This (revised) position follows from discussion between the HSE and the applicant direct, including an indicative layout wherein the density and number of units within the middle and inner consultation zones are to an acceptable level such that HSE does not advise against the development.

IMPACT ON PROPERTY

 property would look directly onto existing property, which would be unacceptable in terms of privacy, security and general noise. A lot of others that stay within the Milnefield area would agree also.

Comment (PO): Irrespective of evidence to confirm the support given by "others" to the contributor's remarks, the application seeks planning permission in principle. The application is without details about the detailed or actual design and site layout information to characterise the development and inform whether the perceived impacts on amenity as described are unacceptable. The proposed residential use would be compatible with the surrounding residential use in the Milnefield area. Further details about the design and site layout arrangements require to be the subject of matters to be specified in conditions for approval within and further application(s) for the site.

In terms of the relationship between existing and proposed housing, the acceptability of any details would require consideration about the detailed design and disposition of buildings within the site; the nature and use of the accommodation and location and orientation of openings including windows; existing and finished ground and floor levels; intervening landform, vegetation and boundary treatments (including proposals to alter or supplement these feature); and distance between property. Without prejudice and subject to suitable details, it is feasible that in principle a proposal could be developed so as not to result in unacceptable or adverse amenity impacts both within the development and between the development and existing property, and vice versa.

IMPACT OF RESTAURANT

• building of a bar restaurant will undoubtedly lead to unsociable behaviour and increased volume traffic/noise in and around vicinity of development.

Comment (PO): The restaurant/bar facility will be located over the site of the existing Mart building (to be demolished) in the north western corner of the site. It will be separated from the existing and proposed development by parking and servicing areas, roads and pedestrian/cycle links including the nearest property to the south. Other than it's likely size or footprint, no other details about the restaurant/bar are available at this stage to suggest, let alone confirm or conclude that unsociable behaviour from patrons will occur. In any event, public behaviour cannot be regulated by the planning process.

Following consultation, neither the Transportation Manager or the Environmental Health Manager has objected to the restaurant/bar in terms of traffic generation and traffic emissions and noise associated with the facility although as part of any further application(s), a noise impact assessment is required to identify all noise sources and all measures to mitigate noise. This would include assessment of the provision and performance of all plant and machinery for example, odour extraction, refrigeration and ventilation equipment) and servicing arrangements, etc. to ensure the proposal does not adversely impact on the amenity of the surrounding area.

IMPACT ON WILDLIFE

• adverse effect on wildlife given the number of declining species such as hedgehogs and bats. Any building on the site would destroy habitats.

Comment (PO): The site is considered to be low or limited but not significant in terms of it's ecological value. It is not subject to any site-specific nature conservation designation and SNH has not objected to the development in terms of ecological interests. After assessment, no protected species (bats) were found present within the Mart buildings. Trees within the site are to be removed (owing to their condition and to accommodate the development) whilst trees around the perimeter of the site are to be retained/protected, therefore maintaining their habitat and bio-diversity potential. Relative to their populations and resources available within the wider area, any specific loss of species and habitat from the site would be minimal not significant.

EFFECT ON SERVICES

- please confirm the effect on local services police, fire, schools, welfare and social (medical (GP, NHS, Dentistry)), refuse collection, traffic (including road surfaces with increased construction traffic during building phase and subsequent traffic thereafter), local sanitation, recreation, etc. Does the Council have enough resilience to cope with the increase and additional demands placed by this development?
- will there be any interruption to services during construction phase i.e. electricity, gas and water? If so, what is the contingency?
- the development seems designed to accommodate young families and falls within the New Elgin Primary School catchment area yet there is insufficient primary school capacity to accommodate any new development within that catchment. It is unlikely that the proposed Linkwood Primary School will help to address this under capacity as it is intended to serve a community where 2500 homes are proposed.

Comment (PO): In terms of extra recreational facilities, an area of open space is proposed within the site although it's function including whether it will include play equipment is uncertain at this PPP stage. The detailed (road) layout of the development would also be expected to take account of the Council's refuse collection arrangements. Any required/proposed interruptions to services, including requirements for contingencies is a matter outwith the scope of the planning process although it would be expected that any service operator disruption and disturbance impacts upon existing customers would be kept to a minimum. Scottish Water do not object to the development in terms of available water and waste water treatment capacity, but this matter is to be reviewed.

The impact of the development upon services, in particular the local transport network, education (primary and secondary), healthcare, sports and recreation, etc. have been assessed as part of developer obligations process associated with the application. A (draft) 'package' of obligations, proportionate in size and nature to the development, have been identified, in this case toward secondary education, healthcare (community surgery and dentistry) and transportation (ETS-related interventions). A finalised package of obligations has yet to be agreed with the applicant.

NOTIFICATION

 never received notification of this development and not aware/missed the meeting in August.

Comment (PO): The notification issue is understood to refer to the arrangements for pre-

application consultation with the local community, in particular a public exhibition event arranged by the applicant/agent and held at the Auction Mart towards the end of August 2016. There was no requirement for the applicant to notify neighbours of that event in the same manner that the Council undertakes upon receipt of a formal planning application however, there is a requirement that before the public event, the applicant must place a public advertisement in a local newspaper at least 7 days in advance of the event. The report on pre-application consultation as undertaken and submitted by the applicant's agent confirms that an advertisement was placed in the Press & Journal before the event date and, in addition, posters announcing the event were displayed locally.

This contributor (and at least one other) is located more than 20m from the application site and therefore, there is no requirement for the Council, as Planning Authority to notify the contributor of the planning application using formal neighbour notification procedures. The application was the subject of a formal public advertisement affording the opportunity for the wider community to comment on the proposal. All representations, whether received through notification and advertisement procedures, have been taken into account.

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 Plan 2015 (MLDP) unless material considerations indicate otherwise. The main issues are considered below.

Application for planning permission in principle (PPP)

This PPP application seeks to establish whether the principle of this proposed mixed-use development as described, is acceptable on the Auction Mart site without having to develop detailed proposals.

With PPP applications, there is no requirements for detailed plans and drawings to be submitted however, a description of the development along with a location plan to identify the site and details about the location of the access point(s) to the development are included. The site layout plan as provided (drawing 10270 P(00) 01) is described as "indicative" in terms of it's form and status.

When granting PPP, it may be subject to a condition (in addition to any other conditions which may be applied) that the development in question will not begin until certain matters have been approved by the Council, as Planning Authority. The specification of those matters within conditions refer to matters about design, siting, access and landscaping, etc. and require further details including plans, drawings and other supporting information to fully describe the character and detail of the development proposed within the PPP application.

Following any grant of PPP, all such conditions require to be the subject of one or more formal applications for approval, consent or agreement of matters attached to (or specified in) conditions on the granting of planning permission in principle (AMC). There is no (statutory) limit on the number of conditions in any one AMC application or on the number of AMC applications that can be submitted to address the identified matters.

With an AMC application, which is not an application for planning permission, preapplication consultation and design and access statement requirements do not apply but neighbour notification and advertisement procedures still require to be undertaken as appropriate. Notwithstanding the progression from PPP to AMC submissions, a prospective developer/applicant can lodge an application for planning permission (APP) wherein matters about the principle and detail for a development are considered together.

Pre-application considerations

From Planning History (above), the proposal was subject to pre-application discussion and feedback (16/01120/PE refers). At that time, the proposed mixed-use development comprised a public house/restaurant, housing (104 units within 64 two-storey houses and 40 three-storey flats) and a care home (45-beds). The latter is no longer part of the development and has been replaced with housing. At the time of that enquiry, no end-user/operator/developer was identified for each individual use, all details were regarded as "illustrative" and "indicative", and after PPP was obtained, detailed design and site layout information would be provided.

The Council's response provided advice on the proposed content of any application and identified various issues associated with the development including its relationship to planning policy; amenity; transport and access; pollution (including noise, odour and contamination); cultural and natural heritage; public health and safety relative to a notifiable hazardous installation; developer obligations; and water, drainage (foul and surface water) and flooding. Further pre-application consultation with relevant consultees was recommended over their interests in the development.

Given the history of flooding at the site, the applicant/agent was advised of the need to address all sources of flooding and associated risks and although informed of the Council's future intentions towards drainage and flooding issues in the surrounding area, it was noted that the time scale for consideration and development of proposals to address those issues would be unlikely to match the applicant's intentions for submitting their proposals to develop the site. At the time of enquiry, the applicant/agent was advised that within any development proposal, robust proposals to address and manage drainage and flooding issues would be required i.e. any scheme design would need to show that the drainage and flooding arrangements therein will be achieved without having any adverse and unacceptable effect upon the development itself and the surrounding area.

Pre-application consultation (PAC) with the local community

For this major application, the PAC report describes the extent of pre-application consultation with the local community including a public event and it reflects the requirements of the Proposal of Application Notice (16/01120/PAN) as served upon Moray Council and Elgin Community Council. The PAC advises that local Ward Councillors of Moray Council were invited to attend the public event, and it considers the involvement of the local community as an important step in shaping the proposal.

At the time of issue, the PAN included reference to a care home but the PAC confirms that this use was removed due to constraints imposed by a nearby hazardous notifiable installation (Gleaner Oils) and flood risk issues, the latter owing to the sensitivity of the care home use which would require a scheme design to accommodate a 1 in 1000 year flood event (SPP refers).

According to the PAC, 39 people attended the public consultation event, including the preview held for Ward and Community Councillors, with a total of 10 representations returned during and after the event. The PAC regards the feedback as mostly positive, with some attendees happy with the proposal (so they did not complete the feedback forms) but where comments were provided, these were generally related to traffic and

flooding matters. The PAC considers these matters as main issues whilst other matters raised are regarded as minor comments.

According to the PAC, most issues will be resolved through the application process, whether as AMC and/or APP applications, but changes were made to the indicative layout, for example to improve connectivity. In responding to comments about the restaurant (regarding hours, noise, viability and demand for use), the PAC notes that interest has already been shown by a restaurant operator keen to expand in Elgin and the restaurant proposal is different from, and will not undermine, other establishments. Noise is not perceived as an issue and the proposal is sufficiently distant from housing although transportation and environmental mitigations can be applied if required.

The PAC notes comments about the layout being 'very nice' and of the need to enhance the site. In responding to comments that the site will be remote from open space, the PAC advises that the existing site is not high quality usable green space, the requirement for 20% open space will be retained within the site, and whilst the site designation accepts the loss of the green field area, the proposal will not affect the ability of locals to access the proposed open space.

In reply to comments about the need for proper (pedestrian) crossings on Linkwood Road, egress being shared between two roads, and traffic generation impacts, etc., the PAC notes that such matters are subject to discussion with the Council's Transportation Service and the impact on the surrounding road network will be addressed through a TA, with mitigation measures provided as required along with the Council's proposals for improvements to the traffic system including Linkwood Road and pedestrian crossings. In terms of the footpath from Market Drive, the PAC notes this is a MLDP 2015 requirement and whilst the location as shown is indicative, it's provision is important in connecting the site with the wider area.

The PAC addresses comments asking about the capacity of local schools and medical facilities by reference to the need to agree any developer obligation requirements, in accordance with MLDP 2015 Policy IMP3.

According to the PAC, several comments question the capacity of the existing surface water and sewerage networks, the need for further information on any strategy to alleviate and manage flooding on, and off, the site; and the need to fix the flooding problem in the area. In response, the PAC advises that the FRA will be undertaken to consider the issues in detail and provide agreed mitigation measures to ensure that the risk of flooding is not increased in the area. The PAC notes that discussions are on going with Scottish Water, SEPA and Moray Council.

In reference to the Planning & Regulatory Services Committee's views given on the PAN about connectivity, the PAC notes that changes have been made to allow full access by vehicles rather than emergency access only and a cycle path between the two access points is included. A connection has also been included to improve cycle/pedestrian access between the site and Milnefield Avenue/Market Drive although the PAC notes that an attendee of the public event was 'not happy' about the provision of this pathway.

Design and Access Statement (DAS)

Although not required for a major PPP application, a DAS has been provided. In providing an overview of the site, it reviews planning policy and supplementary guidance, design principles and the indicative site layout approach to the application. It notes also that the surrounding area is characterised by a mix of commercial, retail and residential uses, the latter mainly to the east and south including single and two storey flats and dwellings.

According to the DAS, the site presents an opportunity to improve and complement the existing surrounding uses as well as increase permeability and connectivity to and from the site whilst retaining accessible and usable open space. Constraints, including local network junctions, flooding, sewers, proximity to a notifiable hazardous installation and trees have also been considered throughout the design process.

The DAS regards the indicative site layout as responding to its existing and natural setting, it continues the existing pattern of development and access roads, the concept design principles employed observe place making principles, and landscaping will be provided to enhance the character of the site which is easily accessed by vehicular traffic and pedestrians, and well serviced by services.

The DAS also identifies several key considerations are addressed i.e. a strong street frontage to Linkwood Road will be provided by the restaurant; the massing and scale of buildings will be in keeping with surrounding area using a mix of building types and scales; the provision of pedestrian paths will increase connectivity and permeability in/out of the site; attractive and usable open space will be provided to enhance and create site identity; some existing trees will be retained, with no building frontages located within identified tree root protection areas; and working with relevant organisations, a strategy will be developed to address flooding issues. According to the DAS, the proposal will create an attractive mixed-use development through the creation of well designed safe and accessible spaces and regeneration of the site, with a variety of new uses (dwellings and restaurant/public house), will benefit the wider community.

Supporting Statement (SS)

The SS indicates that the site is designated in the MLDP 2015 as an opportunity site, Elgin OPP5. After review of the national and local policy context, it considers that the principle of development is acceptable and the proposal will comply with SPP (2014) and MLDP 2015 in regard to issues relating to location, siting and design (wherein the site layout can be designed to accord with place making), landscaping, transport and accessibility, affordable housing, developer contributions including local services (schools), water drainage and flooding, protected species and sustainability.

The SS regards the proposal as being compatible with the surrounding area, and based upon the indicative layout, the site can be developed in conformity with relevant policy to a high standard, in terms of design, open space, affordable housing, access and parking standards. According to the SS and other accompanying documents including the TA and FRA demonstrate the acceptability of the proposal and that mitigation measures can be provided to resolve any identified impacts of the development. The SS respectfully requests that the proposal be supported.

Tree Survey

The survey records 20 substantial trees or groups of trees within or directly adjacent to the site boundaries together with the locations of shrubs and very small trees. To accommodate the development and owing to their poor condition, the survey recommends removal of the row of cypress and birch trees between the Mart parking and paddock areas. In the north-eastern corner, some trees may be removed if the area is used for SUDS and housing. According to the survey, trees and groups of trees around the site perimeter can be retained provided root protection areas are identified and tree barriers

are erected. New planting around and within the site is proposed to mitigate existing tree loss and provide new generation quality plants with long-term potential and high amenity value.

Sustainability Statement (SuS)

According to the SuS, the proposal responds to sustainable principles, in terms of planning and building standards requirements, and it will be served by several decentralised energy centres serving a distribution heat network along with various energy technologies yet to be considered and investigated for their feasibility. Other passive design measures, energy efficient initiatives and low and zero carbon generating technologies will form part of an energy strategy to deliver the required energy and carbon savings and meet, and improve upon, Building Standards targets.

The SuS proposes exploration of solar photovoltaics, combined heat and power, and heat pumps to reduce carbon emissions and complement other design measures and, if suitable, they will be incorporated into the design. In addition, the SuS identify several key aspects that would make the development an example of "good practice" in terms of sustainable development, including a high quality residential and employment opportunity scheme, reduced reliance on the car due to proximity to public transport and local amenities, creation of social spaces and a community environment, ecological enhancement, provision of recycling facilities and energy efficient buildings, etc.

The SuS identifies a range of potential measures for consideration and investigation. It does not identify actual sustainable measures that will be included in the development.

Development on the Auction Mart opportunity site (Elgin OPP5, ED5, H1, IMP1)

This application seeks to establish the principle of development upon land at Elgin Auction Mart without reference to detailed design and site layout information to describe the character of the proposed development. The proposal is located on the Elgin OPP5 designation, an opportunity site as defined in the MLDP 2015 which is subject to sitespecific and developer requirements (Elgin OPP5 and Policy IMP1 refer, see Appendix 1).

From Elgin OPP5, the site is available for business use, with any retail use thereon subject to retail planning policy considerations. Unlike more recent applications for the site, the current proposal is not for a Class 1 retail use but rather for a mixed-use development with both business/commercial use (restaurant/bar) and non-business (residential) uses.

Within Elgin OPP5, residential use is not specifically confirmed as a suitable use for this opportunity site. However, from Policy ED5 and in the context of the proposed redevelopment of a brownfield site (in part), appropriate alternative uses can be considered because any uses mentioned in the designation are illustrative and not a definitive list of acceptable uses. Any new proposed use(s) should be compatible with the surrounding uses.

Here, subject to acceptable design and site layout details, with existing housing adjoining the site to the east, south and west, and four houses on the northern side of the Linkwood Road, a residential use as proposed would, as a compatible use, be acceptable. The SS regards the restaurant/bar use as being in keeping with other business/commercial facilities in the wider area including business/commercial interests located within the commercial centre on Edgar Road to the west. The proposed mixed-use development as defined therefore accords with, rather than departs from, the Elgin OPP5 designation.

The Elgin OPP5 designation requirement for a landscaping area is achieved wherein the indicative layout plan incorporates an area of open space for residential development enclosed by the proposed housing and road/street layout in the eastern part of the site. This area will be accessible to all of the development. An open area is indicated in the north east corner of the site if used for open space the quality and quantity of, and accessibility to, that space may be constrained by the retention of some trees and any use of the space for SUDs drainage. Elsewhere, new landscape planting is indicated within the development and existing trees/shrubs around the site perimeter are to be retained/ protected.

The Elgin OPP5 designation requires provision for public access for pedestrians and cyclists both adjacent and within the southern and eastern boundaries of the site. The indicative layout plan indicates pedestrian and cycle access within the development and along the southern boundary a link to be provided between the site and Market Drive. No similar access arrangement is proposed adjacent to the eastern boundary: this could not be achieved without taking access through the grounds of existing property located between the site and Linkwood Road.

As required by Elgin OPP5, vehicle access to the site is not taken from the A941 New Elgin Road/Edgar Road/Linkwood Road roundabout junction. Instead, access will be taken from two priority junctions located on Linkwood Road. As part of the designation requirements, a TA has considered the impact of the development upon the surrounding road network with the off-site impact of the development considered solely upon the Elgin TSP31 but not TSP32 junction. Developer obligations are being sought to address the impact of the development upon the wider transport network and in principle the proposal is acceptable in terms of the transport-related Elgin OPP5 designation requirements.

A detailed FRA is required for the site (Elgin OPP5 refers). A FRA has been submitted but whilst setting out a strategy to address flooding from identified sources, the FRA lacks information about the mitigation measures being proposed, including the extent and effects of land raising (which is intended to address various flood sources). The FRA does not demonstrate that with all required/proposed mitigation measures in place the risk of flooding to the site itself and to elsewhere is not exacerbated. As the need for a detailed (and robust) FRA to address flood risk from all sources, even at this PPP stage, has not been addressed, the proposal does not accord with the Elgin OPP5 requirements to address flooding.

In not being specifically designated for housing, such development on a "windfall site" would only be acceptable if certain criteria are satisfied including whether the site is designated for an alternative use (Policy H1 refers). The latter does not apply here because, as an opportunity site, it is not designated for any use although it is considered suitable for business use. Policy ED5 clarifies that the range of uses mentioned within an opportunity designation are only illustrative of any actual use(s) that might be developed on the site. The designation does not preclude the proposed restaurant/bar and residential nature of this development, uses which are acceptable and compatible with the surrounding area.

In principle, and subject to acceptable details regarding design and site layout arrangements being achieved, the proposal would satisfy other Policy H1 criteria although in the absence of detailed mitigation measures, it does not demonstrate that no adverse flood effects occur to the development itself or to the surrounding area (see below).

In terms of developer requirements Policy IMP1 requires inter alia that any development be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. This policy may also be informed by other policy considerations (see Appendix). Notwithstanding the current PPP status of the application but subject to suitable and acceptable design and site layout details being provided pursuant to any matters specified in conditions attached to any grant of PPP, including conditions or matters recommended by consultees or required by planning policy, it is considered that in principle the proposed development would be acceptable and not have any unacceptable or significant adverse effects on the character, appearance and amenity of the proposed development and upon the surrounding area including neighbouring property. However, the proposal would not satisfy Policy IMP1 in that insufficient information is provided demonstrate that no adverse flood effects occur to the development itself or to the surrounding area (see below).

Placemaking, design and site layout (Elgin OPP5, PP1, PP2, PP3, H1, H8, H9, E4, E5, EP2, EP11, IMP1, IMP2)

The site is not the subject of any masterplan, design brief or similar which may inform the delivery of development on the site. As noted, this proposal seeks only to establish the principle of development without detailed design and site layout information. If granted PPP, the proposal would be subject to conditions which would inform the character of development and identify the detailed design and site layout matters which require approval within any further application(s) for the site.

The written comments within the SS and DAS indicate that the proposal could be designed according to Policy PP3 placemaking principles. As a matter requiring further approval and to be specified in conditions, any future application (AMC or APP) would be expected to address and demonstrate how placemaking principles have been considered and informed the proposal. In addition to detailed rather than indicative drawings, this would include submission of a "Design Checklist" for both residential and commercial elements of the development in order to satisfy Policy PP3 and the associated Supplementary Guidance: Urban Design, which reflect national and local commitments to raise higher urban design standards and identify key place-making principles to be integrated into the design and site layout of the development, to help create it's identity, character and sense of place.

Given the PPP status and indicative layout plan, no "Checklist" has been provided and no "Quality Audit" has been undertaken to assess the proposal's conformity with placemaking principles. After pre-application discussions and apart from an identified improvement in road and path connections, there appears to be limited change made to the indicative site layout arrangements and both then, and now, the indicative layout details are unlikely to comply with Policy PP3. Without prejudice, the design and site layout details will require revision and be informed by, for example, the extent of on-site land raising and/or other measures to mitigate against flood risk, detailed surface water drainage arrangements and accommodation of land required for transportation improvements, etc. as well as the requirements of consultees and planning policy.

In design placemaking terms, detailed design information is required to define the character and identify of the development. For the restaurant/bar, the SS reference to the size or footprint area of the building does not express or inform it's likely external appearance, form and massing, material finishes and scale (or height) for a building which will be prominently sited and adjoin the Elgin TSP31 junction. This siting presents opportunities for a dual aspect design, but it remains to be determined whether the

building will take reference in its design to the historic use of the site, as an Auction Mart, with a design bespoke to the site and it's surroundings rather than one based upon operator's requirements alone.

From the SS and DAS, character and identity will be informed by the actual proposed housing mix of 1, 2 and 3-bedoorm houses and/or flats. However, this is not reflected in the indicative site layout which exhibits a large degree of uniformity in plot size and size (footprint) of property. Also, reference is made to 1, 2 and 3 storey development yet no information about the actual design, external appearance, material finishes, and scale or height of property is indicated. 3-storey development is not an existing characteristic of property within the surrounding area and it would conflict with the 1 and 2-storey character described in the DAS.

At the pre-application stage, flats would be accommodated within the 3-storey buildings including two along Linkwood Road and although requested to do so, neither the SS and DAS address the appropriateness of 3-storey buildings within the development relative to the scale of the existing surrounding buildings and their resultant impact upon the character, appearance and amenity of the area including neighbouring property. To remain in keeping with the surrounding development, a condition should be included to restrict the proposed development to not exceed 2-storey in scale.

In housing mix terms, further variety and interest will be required, not just houses and flats as proposed but also to include provision for private, affordable and accessible housing. These matters would require to be specified in conditions for approval within any further application(s) for the site and impinge upon the proposed design and site layout arrangements for the site and necessitate revision of the current indicative layout details.

From Policy H8 and associated Supplementary Guidance, 25% of all housing will require to be delivered as affordable housing. Relative to the identified total of 101 units, 26 affordable units of accommodation will be required, with details of the number, mix and house type designs for the required accommodation and the arrangements for the longterm delivery and management of affordable accommodation to be agreed in consultation with the Council's Housing Strategy & Development Manager. The appropriateness of using predominantly the flatted development for affordable housing, as indicated in the SS, may require to be reviewed in terms of the delivery of affordable accommodation related to local housing needs.

From Policy H9 and associated Supplementary Guidance, 10% of all private housing will require to be built to wheelchair accessible standards of which 50% require to be single-storey. Relative to the identified 101 units, 8 accessible including 4 single-storey accessible dwellings will be required to be provided on site and a Compliance Statement submitted to demonstrate that the accommodation is accessible.

In terms of movement placemaking principles the site, in terms of it's location, is wellplaced in terms of access to facilities and amenities, including access to surrounding road, rail, foot and cycle path and public transport networks, and after improvement of Linkwood Road (see below), the existing bus infrastructure will be retained and enhanced.

Internally, the restaurant/bar with it's parking and servicing areas are connected to a new access off Linkwood Road which in turn is now connected through the proposed development to another (new) site access off Linkwood Road. In addition, the internal roads, lane and squares arrangements are intended to maximise permeability and

connectivity within the site. External connections are proposed onto Linkwood Road, but the internal site road/lane should be taken onto the boundary with Market Drive so as to be capable of providing a (road) connection in the future. As well as connections within the site, foot and cycle connections are also proposed onto New Elgin Road and Market Drive (the latter as required by Elgin OPP5).

The extent to which the street pattern will meet legibility/street hierarchy principles including key character buildings and use of different surface materials and variable road widths to reduce vehicle speeds, maximise pedestrian and cycle safety and promote a safe environment will remain to be determined as a matter to be specified in conditions for approval within any future application(s).

As advised at the pre-application stage, the car parking arrangements as shown on the indicative site layout would not be compliant with the Policy PP3 car parking criterion given the predominance of parking located across the frontage of properties or in blocks of parking, an arrangement which is unacceptable in terms of it's physical appearance and visual dominance. The indicative mitigation of a tree or grass strip between plots and/or pairs of spaces, etc will have limited effect in reducing the dominance of car parking with the surrounding streetscape. The required relocation of parking to the side and rear of property, as occurs within Milnefield Avenue to the south, will impact on the overall site layout and number of units to be accommodated within the site.

In terms of open space principles, the open space area as identified will be overlooked by property and accessible to the whole development. The quality of that space including the extent of it's availability and accessibility will however be reduced where that area is used for SUDs, a detail not shown on the indicative drawing submitted for planning purposes but included on the concept drainage drawing included in the Drainage Assessment (DA).

As a matter to be specified in conditions for approval, any future application will require to demonstrate that the requirements of Policy E5 are met, both in terms of quality (including function and accessibility etc to the surrounding development) and quantity (including the requirements for 20% (minimum) of total site area to be open space). The SS indicates that 20% site coverage is achieved but the finalised site layout will determine the extent of compliance with the identified policy.

From the indicative site layout and tree survey, provision for new and replacement planting within the site is proposed. No detailed landscape scheme with full planting specifications is included, a matter to be specified as a condition for approval within any further application. In turn, the scheme will inform consideration about whether biodiversity is enhanced. Reflecting the requirements of Policy E4, the tree survey identifies removal of existing trees within the site due to their condition and to accommodate the development. According to the SS and tree survey, the trees around the site perimeter are to be maintained (retained/protected) as a natural feature.

In light of the above comments, and although in principle the development may be acceptable, further information on a number of matters will be required before the development could be considered to comply with all relevant planning policy relating to design, site layout and place-making considerations.

Impact of notifiable hazardous installation, Gleaner Oils (EP11)

Whilst not a place-making criterion, the site layout, in particular the nature and disposition of buildings within the Mart site, will be informed by their proximity to this installation which

is located to the north of Linkwood Road.

Following consultation and based on further information provided to HSE i.e. the indicative site layout drawing over-marked with consultation zone radii, the proposal would have 2 dwellings located within the inner consultation zone and 28 dwellings located within the middle consultation zone. All remaining housing and the restaurant/bar will be located either within or outside the outer consultation zone. Based upon this level of provision, HSE do not object or advise against the development on the grounds of public safety, and therefore, in principle the proposal would be acceptable in terms of Policy EP11. The requirements of HSE about the siting of property should be a matter to be specified as a condition for approval within any further application(s).

Sustainability (PP2)

The proposal complies with Policy PP2 in so far as the requirement to provide a Sustainability Statement (SuS). In terms of sustainability credentials, the SuS highlights that the siting of the proposal is enhanced by being located close to road, rail, public transport and foot and cycle networks, and accessible to local amenities and Elgin town centre, thereby making efficient use of land and available infrastructure. However, the proposed sustainability measures as identified in the document are somewhat "generic" in nature and require further investigation prior to inclusion within the development.

Thus, although the SS might consider the SuS to demonstrate compliance with Policy PP2, it lacks sufficient detail to identify and confirm the actual and specific measures that will be incorporated, and despite being advised to do so, at the pre-application stage, it does not readily follow the "Sustainability Checklist" format for considering sustainability issues as recommended by Policy PP2 and the associated Supplementary Guidance: Climate Change. As a matter to be specified for approval in any subsequent application and to demonstrate adherence to sustainability principles and compliance with Policy PP2, the required Checklist should be provided to confirm all sustainability measures incorporated into the development.

Sequential approach (R2)

Although not a Class 1 retail use, the SS acknowledges that as a use likely to generate significant footfall, the restaurant/bar should be subject to the sequential approach. As advocated and required by SSP and Policy R2, the sequential approach requires an ordered consideration of locations for new development, firstly within town centre and thereafter progressing to edge of centre, commercial centres, and out of centre sites. After considering several sites and submission of additional information thereon, the requirements of the sequential approach have been met.

In summary, the assessment considers the Mart site will be a well-designed building sympathetic to it's setting; it offers an attractive frontage onto Linkwood Road and New Elgin Road; and it is located in a high-profile location accessible to a choice of transport modes. Moreover, it is sequentially and ideally suitable for the proposed restaurant/bar because there are no suitable, viable or available sites either within or on the edge of the town centre and additionally, it sits adjacent to the commercial centre on Edgar Road to the west where there are also no suitable opportunities capable of accommodating the development. The agent's assessment concludes that the site should be favoured because it involves development on vacant land, although the SS confirms that the site is occupied as an Auction Centre, and, as an out of centre site, it fits sequentially within the locations identified in Policy R2.
In terms of the remaining requirements of Policy R2, no retail impact assessment has been sought/required because the size and nature of the restaurant/bar is considered unlikely to have a significant impact on the vitality and viability of town centres including Elgin, and the intended family-orientated nature of the proposal differs from the current offer of town centre restaurant/leisure premises. The SS considers that the proposal will have a positive contribution upon the built environment and transport and drainage service connections and infrastructure can, or will, be provided and/or made available.

Noise (EP8, IMP1)

The SS does not address the potential for pollution associated with construction and operation of the development. In some matters, pollution impacts during both phases of development may be addressed through separate non-planning (environmental) legislation however, Policy EP8 advises that where significant pollution may be caused by a development, assessment and appropriate mitigation is required.

Here, noise associated with the restaurant/bar is identified as most likely to impact on the character and amenity of the area, with the nearest neighbouring property located to the north east and south. Following consultation and to accord with policy, the Environmental Health Manager has recommended that a noise impact assessment be submitted to identify, manage and mitigate all noise sources associated with the construction and operation of the restaurant/bar. This would include, but not be limited to, consideration of the location, character and performance of all plant and machinery (including ventilation/extraction and odour control systems), whether surface mounted or affixed to the building) etc. The required assessment should be a matter specified for approval in a condition to be addressed within any future application. Subject to compliance with this requirement, the proposal would in principle be acceptable in policy terms.

Pollution prevention (EP8, IMP1)

Policy IMP1 requires any application to address potential risks of pollution in accordance with recognised pollution prevention and environmental measures. In part recognising that the potential risks of pollution cannot be fully characterised at this PPP stage and/or because construction methods and technologies are currently unknown and notwithstanding the construction management programme as submitted (which is not approved), SEPA recommend the preparation and implementation of a (detailed) site-specific construction environmental management plan (CEMP).

As advised at the pre-application stage, and following consultation with SEPA, the CEMP would be expected to systematically identify and address all pollution prevention risks and aspects of the site/the development that might adversely impact on the environment and identify all required/proposed measures to be adopted and implemented to mitigate all identified pollution prevention risks, including account of contractor and construction working practices and 'best practice' to manage and mitigate the impact on water, materials including soils and waste as well as site preparation, demolition and land raising where proposed. It is recommended that the CEMP be a matter specified for approval within any future application and subject to compliance with this requirement, the proposal would, in principle, be acceptable in policy terms.

Contamination (EP9, IMP1)

Policy EP9 requires investigation of contaminated land. Although recommended to do so at the pre-application stage, no assessment has been undertaken to determine that ground conditions will not cause significant pollution in terms of contaminated land. As such and as a matter to be specified as a condition for approval within any further

application(s) for the site, the Environmental Health Contaminated Land Service has recommended that a contamination assessment be carried out in accordance with an agreed methodology along with on-site physical investigation and identification of all remediation measures to be carried out, where appropriate, etc. Subject to compliance with this requirement, the proposal would, in principle, be acceptable in policy terms.

Cultural heritage (BE1, IMP1)

The Auction Mart premises is not included on the statutory list of buildings of special architectural or historic interest, nor located within any Conservation Area. The proposal is also considered unlikely to impact, directly or indirectly, upon the setting of any nearby cultural heritage assets. However, to achieve a historic record of the Auction Mart Building, a photographic survey is recommended, as advised by Aberdeenshire Archaeology Services. Where so incorporated as a matter to be specified in conditions for approval of any further application, the proposal would, in principle, not be considered to conflict with cultural heritage policies as identified.

Natural heritage (E1, E2, E3, E4, IMP1)

The Auction Mart site, including the field/paddock area, is not the subject of any sitespecific nature conservation designation and the trees/shrubs located within or around the site perimeter are not subject to any Tree Preservation Order. Trees around the site boundary are to be retained/protected during construction but those within the site will be removed to accommodate the development and owing to their existing condition. These will be replaced within the development along with additional new plantings, to enhance both the character and appearance of the proposed development and biodiversity.

The current ecological value of the site would be regarded as low given the nature and use of the grassed area, and a bat survey has been undertaken which confirms that no protected bat species are present or occupy the Mart premises. SNH has not objected to the development on the basis that it would adversely impact on natural heritage interests. In principle, the proposal would not conflict with natural heritage policies as identified.

Transport and access (T1, T2, T5, T6, T7, IMP1, IMP2 IMP3)

As required by Elgin OPP5, a TA has been submitted and, as revised, it includes an indicative layout drawing (10270 P(00) 01B) which differs from the indicative (planning) drawing, for example, in terms of the extension of the internal road/lane being taken on the boundary with Market Drive and introduction of a pedestrian link onto New Elgin Road to the south of the restaurant/pub.

Reflecting SPP principles which promote development utilising existing infrastructure, reducing the need to travel and providing safe and convenient opportunities for multimodal transport including walking and cycling, the TA regards the proposed development as complying with national, regional (HITRANS) and local transport policy wherein the site is considered to be well-placed in terms of access to road and sustainable (rail, public transport, foot and cycle) transport modes and it is within easy walking distance of many facilities including employment, retail, leisure, education and Elgin town centre.

Site access, internal road layout and parking: In accordance with Elgin OPP5, the two site priority junctions both take access onto Linkwood Road. The TA confirms that full details and specifications for the site accesses, visibility splays, swept path analysis for the site access and internal junctions, and definition of the street structure/hierarchy for all roads, lanes and squares, foot and cycle paths, etc. will be provided. Whilst not objecting to the development on road safety grounds, the Transportation Manager recommends that

such matters to be specified in conditions to be addressed within any further application(s) to develop the site.

In addition, the Transportation Manager recommends inclusion of the extended road detail being taken onto the boundary of Market Road, so that a road link is capable of provision in the future, along with pedestrian and cycle link connections to/from Market Drive, New Elgin Road and elsewhere within the site (as identified) and the safeguarding of land along Linkwood Road/New Elgin Road (as defined) for future transportation improvements. Subject to the identified requirements and acceptance of transport details thereafter, the proposal would satisfy transport-related Policies T2, T7 and the Elgin OPP5 designation.

Although required by Elgin OPP5, pedestrian/cycle access onto the eastern boundary is neither proposed nor required, the latter following consultation on the application. To achieve this would require access through property located between the site and Linkwood Road. On this basis, a departure from the Elgin OPP5 designation can be supported.

From the TA, full details of parking provision including the location, number and design of spaces etc for cars, cycles and motorcycles will be provided in accordance with the Council's adopted parking standards. Again, whilst not objecting to the development on parking grounds, the Transportation Manager recommends that parking be a matter to be specified as a condition to be addressed within any further application(s) to develop the site. The Transportation Manager also requires provision for secure cycle parking and electric charging to be included into the development and that all parking to be in accordance with parking standards applicable at the time of any further application.

Whilst addressing the physical provision of parking spaces, the impact of such provision will also require to be considered to ensure compliance with Policy PP3 place-making considerations, as noted earlier. This may impact upon the current indicative layout and inform the layout and number of units of residential accommodation proposed on the site.

Impact on the surrounding road network: The TA acknowledges that the development will impact on the surrounding road network, however the TA analysis is limited to impact on Linkwood Road and the Elgin TSP31 junction as defined after considering the number of vehicle trips likely to be generated by the development and their distribution over the wider road network. The TA considers that the development can be accommodated, without significant effect, on the road network as examined (see below).

The TA does not assess the impact on other parts of the network including TSP32 as identified/required in Elgin OPP5, except by noting that several Elgin Transport Strategy (ETS) interventions are planned and will be addressed through developer obligations.

The Transportation Manager does not agree with the trip generation rates used in the TA for the restaurant/pub trip. Instead, higher estimates of trip generation rates and predicted levels of traffic (including 44 (by Transportation Manager) rather than 35 (by TA) two-way PM peak restaurant/pub vehicle trip rates) have been used to inform the Transportation Manager's consideration of the proposal, including developer obligations. Although the proposal is acceptable, in principle, the Transportation Manager recommends, as a matter to be specified in conditions, that further (up-dated) TA(s) be submitted for the actual details of the development in accordance with an agreed scope of the further TA(s) using the revised (higher) trip rates.

According to the TA, the two priority-controlled site access junctions onto Linkwood Road would accommodate the development with no queuing and minimal delay on the road. The detailed design and layout of the accesses will be a matter specified by condition to be addressed within any further application(s) for the site.

Although not assessed in detail, the TA acknowledges that improvement to the TSP31 junction is proposed as part of the ETS which also identifies a range of proposed interventions, covering all modes of transport intended to benefit Elgin's transport network. The ETS identifies the up-grade of the Elgin TSP31 roundabout junction to include a signal-controlled junction incorporating pedestrian and cycle infrastructure. Reflecting the ETS approach, the TA proposes that the development obligations be used to address the impact of this development (and others) upon the Elgin TSP31 junction.

Following consultation, the Transportation Manager has identified that the development will impact on other junctions identified with the ETS. To address the cumulative impact of this development, developer obligations have been identified towards ETS interventions, details of which have been made available to the applicant (see below).

The ETS-based proposal for improvement of cycle facilities on Linkwood Road is also identified in the TA, and by the Transportation Manager. To achieve this, widening of Linkwood Road is required to facilitate provision of additional lanes at junctions and for turning traffic and pedestrian islands, etc. As a matter to be specified by condition, the Transportation Manager has identified a land area along the Linkwood Road and New Elgin Road frontages which requires to be safeguarded to accommodate the required improvements as well as provision of a 3m cycle path and provide for replacement and enhanced bus infrastructure. This will inform, and impact upon, the site area available for development within the site.

A value for the land required for the improvement is awaited and will inform the final amount of transport-related developer obligations required to mitigate the impact of the proposal upon existing transport infrastructure.

Water and Foul Drainage (EP10, IMP1, IMP2)

Water: The development will connect to a public water supply. Whilst Scottish Water advise that sufficient capacity may be available, a connection cannot be guaranteed. This matter will be subject to further review by Scottish Water once full planning permission is granted.

Foul drainage: The development will connect to a public foul drainage network, an arrangement which, in principle, is acceptable in terms of Policy EP10. Whilst Scottish Water advise that sufficient capacity may be available, a connection cannot be guaranteed. This matter will be subject to further review by Scottish Water once full planning permission is granted.

According to the submitted DA, foul drainage from each residential plot and the restaurant/bar will discharge to new gravity drains which discharge via disconnection chambers to new foul sewers within the site prior to their connection into an existing combined (foul and surface water) sewer located in Linkwood Road.

Surface Water Drainage (EP5, IMP1, IMP2)

In accordance with Policy EP5, the DA as submitted assumes any existing private sewers serving the Mart will be removed/abandoned and the two existing surface water sewers

crossing the site (as identified by Scottish Water) and located under the proposed open space area will be retained in situ. The DA considers that the arrangements will cope with the surface water generated on the site and thus, in principle, the site is or can be serviced in terms of drainage infrastructure.

Within the DA, the conceptual drainage layout drawing (113579/2001) differs from the indicative drawing (10270 P(00) 01) submitted with the planning application by including a SUDs basin in the north eastern corner of the open space area and a grass swale around the south eastern edge of the open space area. The tree survey drawing also mentions SUDs in the northeast corner of the site beyond the identified open space area, but no SUDs details are shown on the conceptual drainage drawings.

To manage surface water during construction, the DA proposes a strategy of measures to control surface water, to be prepared by the site contractor once site working practices are developed. The DA identifies somewhat "generic" examples of measures required to control, intercept and prevent run-off and sediment impacts upon the water environment as opposed to exact details of the actual measures that will be employed/adopted. To address the management and disposal of surface water during site construction, it is recommended that this matter to be specified as a condition for approval within any future application to develop the site.

For the operation of the development, the DA indicates that surface water run-off from building roof areas, parking bays and driveways and road areas will discharge to gravity drains and sewers via downpipes, or from porous paving with stone-filled trenches beneath or to road gullies and swales etc into new surface water sewers discharging at a controlled (attenuated) rate via an outlet control manhole into one of the existing surface water sewers which cross through the site.

Following consultation and whilst not objecting to the development in surface water drainage terms, MFRM note the conceptual nature of the operational and construction phase drainage strategy and the need for further information to demonstrate that the SUDs arrangements are appropriately designed and sized. Similarly, whilst noting that the SUDs basin and other details are not included on the indicative planning drawing, SEPA does not object to the principle of the development but they recommend that further details of the operational (and construction) SUDs be provided.

To address consultee requirements, it is recommended that the detailed arrangements to address the management and disposal of surface water during operation of the development be a matter to be specified as a condition for approval within any further application(s).

Agreement from Scottish Water is required to connect into their existing infrastructure. The proposed attenuated rate of discharge level (44l/s) into their existing surface water sewer, identified in the DA as having been agreed with Scottish Water, reflects information in a response given by Scottish Water in 2016 (see Consultations).

Scottish Water's response is clear that surface water discharge into their combined sewer (in Linkwood Road) will not be allowed except in exceptional circumstances. The consultee has advised that no Drainage Impact Assessment (for Scottish Water purposes) has been submitted to assess the impact of the development on the surrounding drainage network.

That said, the proposed connection here is not to the existing combined sewer but to an existing surface water sewer located within the site. In principle, the arrangements reflect Scottish Water's advice within separate foul and surface water service connections and for surface water discharging to SUDs within the site, and thereafter discharging to an existing surface water sewer at an agreed attenuation rate. However, in relation to the advice given earlier by Scottish Water, the DA lacks information to indicate whether any alternative proposals to manage and dispose of surface water solely within the site (attenuated or otherwise) have been considered but cannot be achieved, to explain why the proposed connection to the existing surface water is necessary.

Flooding (EP7, IMP1, IMP2)

Mindful of the sensitivity and incidence of flooding on this site in previous years, including an event in 2014, the applicant/agent was advised, at the pre-application stage, of the need for a detailed (and robust) FRA to satisfy the requirements of Elgin OPP5 and Policy EP7 and SPP, identifying all flood risk sources and details of all required/proposed measures to mitigate and not exacerbate the risk(s) of flooding onto, on and off the site.

As submitted, the FRA discounts coastal flooding as a flood risk source and with the Elgin FAS having addressed the risk of flooding from the River Lossie, it regards the site as now being outwith the functional floodplain and not at risk of fluvial flooding. However, in more severe events, beyond the 1 in 200-year return event period/design standard for the Elgin FAS, the FRA acknowledges the residual flood risk from exceedance of capacity of the Tyock Burn and culvert and back-up on the River Lossie. According to the FRA, infrastructure failure (of Tyock Burn culvert or blockage) is not a risk in a 50% blockage scenario and whilst elevated ground water levels may have been a contributory factor, this source would not by itself cause flooding of the scale experienced in 2014. Relative to a 1 in 200-year return event period, the FRA acknowledges the site as being at risk from overland surface water flows entering the site and that the public sewers network is unlikely to have capacity or ability to deal with water from other sources.

The FRA proposes raise surface levels within the site to mitigate against the residual fluvial flood risk, infrastructure failure and other minor potential flood sources although the term "minor" is not defined but presumed to refer to other FRA-identified flood risk sources. Whilst land raising would not displace fluvial water being displaced at the 1 in 200-year return event standard, the FRA confirms that displacement of surface water may result in increased flood risk to adjacent receptors in a 1 in 200-year return event period. As mitigation to address surface water overland flows and sewer flooding, the FRA concludes both sources need to be addressed as part of a local surface water drainage strategy and it awaits the outcome of the Council's proposed SWMP to determine whether land raising will increase the risk to adjacent property and assist in developing further mitigation.

The FRA identifies flood risk sources but thereafter it is not sufficiently detailed, as required by Elgin OPP5 etc. owing to the lack of detail to demonstrate the nature and extent of all required/proposed mitigation measures and the effect of such measures to manage and address the risk of flooding from all sources, including demonstration that it will not exacerbate the risk of flooding to the development itself and to elsewhere.

Indeed, following consultation, SEPA and MFRM object to the development based upon the lack of information provided to address flooding. The latter adds that, as presented, the FRA is not based upon, nor includes, hydrology and hydraulic modelling (and does not follow SEPA's recommended guidance). Although in agreement that the site benefits from the completion and operation of the Elgin FAS, both consultees and the FRA highlight the residual fluvial flood risk beyond the Elgin FAS design standard and that that risk and risks arising from other acknowledged flood sources are not addressed or detailed in the FRA.

For example, in mitigation, land raising is proposed but no details including the extent or area(s) involved and depth(s) or height(s) of the proposed/required up-fill are included, including reference to existing and finished ground and floor levels. It is also unclear whether compensatory storage, if any, will be provided (including the location, extent or area and depth and volume of storage, etc.). Furthermore, despite being acknowledged as having the potential to affect the risk of flooding, there is no demonstration (including modelling outcomes) that mitigation involving land raising (either alone or in interaction with other mitigation measures) does not exacerbate the risk of flooding to the development and elsewhere, for example, to the Tyock Burn and surrounding properties adjoining the site. Representations received against the proposal also express concern about the effect of land raising on property adjoining the site.

Consultees, and those who have submitted representations, also highlight insufficient information about other proposals to mitigate fluvial flood risk associated with the Tyock Burn, the effects of land raising upon groundwater or in addressing surface water flows entering the site, and the effects of displacement of flood water to the surrounding area. These matters are not addressed in the FRA including information to demonstrate both the extent and the effect, including any exacerbation, of flood risk is mitigated.

To address surface water and public sewer flood sources, the FRA places an element of dependence upon the Council's SWMP arrangements. At this time, the applicant's agent and consultant engineer are aware of the nature, purpose and time-scale of the SWMP as agreed by the Economic Development & Infrastructure Committee (Minute, 23 January 2018 refers) a Plan that is under investigation with outcomes yet to be identified/agreed, including those for an "Elgin: New Elgin Road/Linkwood Road" option.

Despite being advised (by MFRM), before and during consideration of this application, not to rely upon the SWMP and to bring forward their own proposals to address and manage flood risk (an approach also endorsed within SEPA's consultation response), no further detailed proposals to mitigate the extent and effects of flooding have been submitted and the FRA has not been revised further to address the representations and consultation responses about the lack of sufficient information to demonstrate that the proposal does not exacerbate the extent and effects of flooding.

Therefore, notwithstanding the PPP status of the application and in the absence of sufficient information, the FRA as presented is not a detailed FRA as required by Elgin OPP5 and in principle, the proposal is contrary to Policy EP7, H1 and IMP1 in that it does not demonstrate that the risk of flooding is not exacerbated and does not have an adverse impact on the surrounding area. Contrary to the SS, the FRA does not demonstrate that the proposals are, or would be, acceptable in flood terms and/or that the mitigation measures as identified resolve flood impacts.

More recently, the applicant's consultant engineer has summarised flood issues. The summary confirms that the site can cope with and address surface water generated on the site (DA refers), and that the site is not at risk of fluvial flooding (at 1 in 200-year event level). In the absence of information but based on a predicted flood water level of around 11.2mAOD, the summary estimates that about 75% of the site at current levels is predicted to flood as a result of surface water from off-site sources. It regards this as a

significant issue and without mitigation/land raising the site is prevented from being developed, and even with further detailed modelling, the summary predicts the majority of the site will still flood without off-site flood measures and land raising.

The estimate about the extent of site being predicted to be at risk of flooding is not supported by detailed calculations including modelling, and if the predicted level is being inferred from information provided earlier by MFRM, the summary does not acknowledge the limitations and qualifications placed upon that information which is not sufficiently robust for planning application purposes and that it did not take account of fluvial flooding or interactions with the Tyock Burn, River Lossie and Scottish Water infrastructure.

The summary assumes that all surface water infrastructure is a Council responsibility, which is not the case and it's suggestion that the Council engage in reviewing and progressing an off-site solution for surface water does not acknowledge the Council's already agreed SWMP investigations or, where owing to the proposed time-scale and or purpose of those investigations the advice that the applicant should bring forward their own proposals to address and manage flooding, noting also that if the Council does develop a scheme then it would be to provide protection to existing property and not to facilitate new development. The summary does not acknowledge that insufficient information has been provided to demonstrate that the risk of flooding has been addressed without exacerbating the risk of flooding from all identified sources of flooding both to and from the development site, it does not add any further information to address the flooding issue and the comment that flooding issues blighting the site require to be addressed by the Council rather than through this application appear to be misplaced and are not accepted.

Developer Obligations (IMP3)

Policy IMP3 and the associated Supplementary Guidance: Developer Obligations (March 2018) seeks obligations (contributions) where development has a measured adverse or negative impact upon existing infrastructure, community facilities or amenity.

Following consideration, and as revised in July 2018, a draft 'package' of developer obligations for this proposed mixed-use development has been identified in relation to education (secondary), healthcare (health centre/surgery and dental) and transportation interests. The education and healthcare obligations are based upon the residential element of the development whilst the transport obligations are based on an assessment of the total impact of the development and then split, proportionally, between, both residential and commercial (restaurant/bar) elements of the development (and based upon the revised (higher) trip rates). The transport obligations, for commercial development, are not subject to the maximum 'cap' of £6,500, which applies to the residential element of this development only (Supplementary Guidance: Developer Obligations (March 2018) refers). The transport obligations will be revised once a land value for the land to be safeguarded along Linkwood Road/New Elgin Road is established.

At present, the draft package of obligations as identified/required to mitigate the impact of the development represents approx. 75% of the total identified developer obligations although the total obligation package has yet to be finalised. In accordance with the obligations process, the draft assessment has been forwarded to the applicant's agent and although asked to do so, there has been no written confirmation from the applicant regarding their willingness and/or agreement to mitigate the identified impact of their development including the level of obligation (contributions) as identified.

As noted, the obligations have yet to be finalised and a land value has yet to be obtained. It is also understood that there is an outstanding issue about the need to reduce the transport obligations further: according to the agent, the assessment does not take account of the number of vehicle trips that are 'linked' (i.e. already on the network) as opposed to new trips, an issue not addressed in the TA and the Transportation Manager is awaiting a robust justification from the applicant's transport consultant being considering this matter further, including any revised (reduced) level of obligation.

At the time of this report and as described above the matter about whether the proposal complies with Policy IMP3 therefore remains outstanding, including a finalised and agreed package of obligations to mitigate the impact of the development upon the surrounding area. Once finalised, it is likely that the obligations would be subject of a legal agreement to be completed prior to issue of any formal grant of planning permission in principle.

Conclusion and Recommendation

As an application seeking planning permission in principle, no detailed design and site layout information is included to characterise the development. The proposal is for a mixed-use development – restaurant/bar and residential – to be located on an opportunity site, Elgin OPP5 as defined within the Moray Local Development Plan 2015.

In principle, the proposed restaurant/bar and residential uses are considered acceptable and compatible with uses found within the surrounding area. Subject to matters being specified in conditions for approval within any further application(s) and thereafter the submission and approval of suitable and appropriate details for the development, the proposal is or can be acceptable in regard to matters regarding the design, siting and servicing of the development, and accord within relevant or related planning policy.

However, notwithstanding the PPP status of this application the proposal is, and remains, contrary to development plan Policies EP7, H1, IMP1 and the Elgin OPP5 designation, and Scottish Planning Policy regarding matters about the impact of flooding upon the development and the surrounding area. In particular, and although required, a detailed Flood Risk Assessment has not been provided (Elgin OPP5 designation refers) and insufficient information is provided about the arrangements to manage and mitigate the risk of flooding, in terms of details about the extent of all proposed/required mitigation measures (which may include land raising and/or any other measures) to address all identified sources of flood risk associated with the site and demonstration that the effects of such mitigation measures as required/proposed will not exacerbate the risk of flooding whether to the development itself and to elsewhere, including property adjoining the site (Policy H1, IMP1 and Scottish Planning Policy refers).

At the time of determination and in terms of Policy IMP3, a measured impact of the development upon existing infrastructure, community facilities and/or amenity has been identified however a finalised package of developer obligations has yet to be agreed and insufficient information is available to determine whether the identified impact will be mitigated.

REFUSAL is recommended.

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

OPP5: Auction Mart, Linkwood Road

This site is considered suitable for business use, which may include a range of compatible industrial, business, office and distribution uses. Consent for retail uses will be subject to Policy R2 and R3. Consent for any development will also be dependent on, the provision by the developers of a landscaped area in association with the development, incorporating public access for pedestrians and cyclists, adjoining and within the Southern and Eastern boundaries of the site. Access should not be taken off the roundabout but off Linkwood Road. Transport Assessment required to consider the impact of the development on the road network and mitigation required to address this. In particular the development impact on the A941/Edgar Road roundabout (TSP31) and Laichmoray Roundabout (TSP 32) needs to be addressed. A detailed Flood Risk Assessment will be required for any planning application that is submitted for this site.

TSP31: Edgar Road/New Elgin Road

Appraisal of this junction based on the development that has been given consent already shows insufficient traffic capacity at this junction. It should be noted that scope for additional capacity improvement at this location is limited due to land constraints adjacent to the junction. Junction improvement will be essential for designated sites in the immediate vicinity of the junction (OPP1 and OPP5). Junction improvement will also be required for any other sites being developed in Elgin (north and south of the railway line) which would impact on this junction. The process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council. Developers are urged to contact Transportation at the earliest opportunity to clarify the scoping matters for a Transport Assessment.

TSP32: Moss Street/Station Road

Appraisal of this junction based on the development that has been given consent already shows insufficient traffic capacity at this junction. It should be noted that scope for additional capacity improvement at this location is limited due to land constraints adjacent to the junction. Junction improvement will be required for any sites being developed in Elgin (north and south of the railway line) which would impact on this junction. The process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council. Developers are urged to contact Transportation at the earliest opportunity to clarify the scoping matters for a Transport Assessment

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

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

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

Primary Policy PP3: Placemaking

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

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour
- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles

- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

Policy ED5: Opportunity Sites

The town and village statements will identify "opportunity sites" which present the opportunity for appropriate alternative uses in the event of a proposal to re-develop. These are often vacant or derelict sites that are no longer required for their original or previous uses. These "brownfield" sites are an alternative to utilising undeveloped, "greenfield" land. Any new proposal should be compatible with surrounding uses.

The historical uses of "opportunity sites" could require contaminated land assessments to be carried out, with remediation prior to re- development.

Any uses that are given should be viewed as illustrative examples only, and not taken as a definitive list of acceptable activities.

Policy H1: Housing Land

Designated sites

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

Windfall sites within settlements

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

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use

d) The requirements of policies PP2,PP3 and IMP1are met.

Housing Density

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

Policy H8: Affordable Housing

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

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

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

Policy H9: Housing Mix/Accessible Housing

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

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

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

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

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

Policy E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management 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 Natura site may be approved where;

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

National designations

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

- a) the objectives of designation and the overall integrity of the area will not be compromised; or
- 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.

Policy E2: Local Nature Conservation Sites and Biodiversity

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

Policy E3: Protected Species

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

Policy E4: Trees and Development

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, 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 protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

Policy E5: Open Spaces

Safeguarding Open Spaces

Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

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

Provision of new Open Spaces

Quantity

New green spaces should be provided to the following standards;

- Residential sites less than 10 units landscaping to be determined under the terms of policies PP3 and IMP1 to integrate the new development.
- Residential sites 10-50 units and new industrial sites- minimum 15% open space
- Residential sites 51-200 units- minimum 20% open space
- Residential sites 201 units and above and Business Parks- minimum 30% open space including allotments, formal parks and playspaces within residential sites.

Quality

New green spaces should be;

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

Allotments

Proposals for allotments on existing open spaces will be supported where they do not adversely affect the primary function of the space or undermine the amenity value of the area and where a specific locational requirement has been identified by the Council. Consideration will include related aspects such as access and car parking and not just the allotment area itself.

Policy BE1: Scheduled Monuments and National Designations

National Designations

Development Proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

Local Designations

Development proposals which will adversely affect sites of local archaeological importance or the integrity of their settings will be refused unless it can be demonstrated that;

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for the development, and
- c) Any adverse effects can be satisfactorily mitigated at the developers expense

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

The Council will consult Historic Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Monuments and archaeological sites.

Policy EP2: Recycling Facilities

Proposals for new development must ensure the provision of adequate space within layouts for well designed waste storage, recycling and collection systems to maximise waste reduction and the separation of materials at source. The scheme should be designed in consultation with the Council's Waste Manager.

For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

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

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

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

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

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

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

Policy EP6: Waterbodies

Proposals must be designed to avoid adverse impacts upon water environment and should seek opportunities for restoration. The Council will only approve proposals impacting on water features where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, nature conservation, fisheries, recreational, landscape, amenity, and economic and social impact can be adequately mitigated.

The report should 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 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. 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 National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. 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.

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 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 extreme 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 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
 - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- 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 flow), and

- An alternative, lower risk location is not available and
- 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 should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy EP9: Contaminated Land

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

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

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

Policy EP10: Foul Drainage

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

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

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

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

Policy EP11: Hazardous Sites

The Council will have regard to the presence of major hazard sites, and apply the PADHI (Planning Advice for Development near Hazardous Installations) methodology for planning applications within the consultation distances around these sites. Formal consultations with the Health and Safety Executive and also the Scottish Environment Protection Agency (SEPA) will take place as appropriate.

Policy T1: Transport Infrastructure Improvements

The Council will promote the improvement of road, rail, air and sea routes in Moray and priority will be given to:

- a) dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised.
- b) improving the A95 (Keith to Grantown) route.
- c) Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.
- d) improving the Aberdeen to Inverness railway for passengers and freight by providing route and service enhancement.
- e) improving harbour facilities for freight and leisure including the diversification of the commercial harbour at Buckie for offshore renewables. Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.

- f) improving access to air facilities, at Aberdeen and Inverness, in particular through public transport, and the establishment of a railway station at Dalcross.
- g) improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.

Proposals that compromise the implementation of these priorities will not be acceptable.

Policy T2: Provision of Access

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

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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

Policy T5: Parking Standards

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

Policy T6: Traffic Management

There is a presumption against new accesses onto a trunk road, and Transport Scotland will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

There will also be a presumption against new direct access onto other main/key routes (the A941 and A98) except where required to support the provisions of the development plan. Moray Council will consider the case for such junctions where significant regional economic growth benefits can be demonstrated. Consideration will be given to the traffic impact, appropriate road design and traffic management requirements.

Policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy R2: Out of Centre Development of Retail, Commercial and Leisure Proposals

Outwith town centres retail development proposals (including extensions) and other uses generating significant footfall such as leisure or public buildings, must:

- a) comply with the sequential approach which requires that locations for new development be considered in the following order of preference:
 - Principal and Other Town Centre Sites;
 - Edge of Town Centre Sites;
 - Other Commercial Centres identified within the Table 1 "Retail Centres and Roles";
 - Derelict or vacant land in out of centre locations that are or can be made easily accessible by pedestrians and a choice of modes of transport;
 - Out of centre sites in locations which are, or can be made, easily accessible by pedestrians and a choice of modes of transport;
- b) demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, this being demonstrated where appropriate, by a Retail Impact Assessment,
- c) meet any requirements for linking development to existing infrastructure including roads access, parking, as demonstrated by a Transport Assessment, sewerage, water run-off and Sustainable Urban Drainage Systems (SUDS),
- d) provide specific opportunities for access by public transport, pedestrians, cyclists and the disabled, and
- e) contribute positively to the built environment of the area by having a high standard of design.

Proposals outwith settlement boundaries will not be acceptable, with the exception of specialist retailing associated with tourism which should be considered against Policy R3 and roadside facilities which should be considered against Policy T3. Small shops intended to meet the convenience needs of a local neighbourhood should be considered against Policy R3.

Policy IMP1: Developer Requirements

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape

- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- I) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP2: Development Impact Assessments

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

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the

identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.

d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

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

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

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

<u>18/00964/APP</u> 12th July 2018

Subdivision of existing retail unit and part change of use to Class 11 (Assembly and Leisure) with creation of new entrance and associated external work at New Look Plc Unit 3 Springfield Retail Park Edgar Road for Springfield Retail Park Elgin Real Estate S.A.R.L

Comments:

- The appointed officer considers the proposed introduction of a proposed (Class 11) leisure use within the Class 1 non-food retail use of Springfield Retail Park would represent a significant amendment to that development as granted planning permission.
- Development subject to advertisement/display notice as development of a class specified in Schedule 3 of the Development Management Regulations 2013.
- Advertised as a departure from the development plan (no longer applicable).
- Three letters of objection have been received.

Procedure:

• None

Recommendation Grant Planning Permission – subject to the following:-

Conditions/Reasons

1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or such Order that may revoke, amend or re-enact that Order) the permission hereby granted shall relate only to the use of the existing retail unit (once sub-divided) for Class 1 non-food retailing purposes and the use of the remainder of the unit (once sub-divided) for the purposes of a gym within Class 11, and neither the retail unit nor the gym shall be used for any other use or purpose without the approval of the Council, as Planning Authority.

Reason - To ensure consideration can be given to the effects and impacts of uses other than that approved herewith upon the amenity and appearance of the surrounding area.

Reason(s) for Decision

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

The proposal is considered to comply with the requirements of the Moray Local Development Plan 2015 and there are no material considerations that would indicate otherwise.

List of Informatives:

THE BUILDING STANDARDS MANAGER, has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

THE ENVIRONMENTAL HEALTH MANAGER, has commented that:-

The premises will be required to comply with the Health and Safety at Work etc. Act 1974, the Workplace (Health, Safety and Welfare) Regulations 1992 and the other relevant regulations made under the Act. The Environmental Health Section would have responsibility for health and safety enforcement in the premises.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
AL (0) 001 B	Location plan
AL (0) 100 A	Proposed floor plan
AL (0) 150	Elevations
AL (0) 200	Proposed ground floor plan
AL (0) 201	Proposed upper floor plan
AL (0) 250	Proposed elevations



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number: 18/00964/APP

Site Address:

New Look Unit 3 Springfield Retail Park Elgin

Applicant Name:

Springfield Retail Park Elgin Real Estate S.A.R.L

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Location Plan









PLANNING APPLICATION: 18/00964/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

- Sub-division of an existing retail unit to form a gym and retail unit.
- Approximately two thirds (447sq m) of the ground floor would remain in retail use, with the other third (268sq m) and the entire first floor (577sq m) to be used as a gym. (The total gross floor area for the gym is approx. 845sq m).
- The proposed retail unit would utilise the existing access on the front elevation of the existing retail unit whilst the gym would have new access to the right hand side of this. The existing windows between these two doors would be blocked up. A fire exit door would be installed to the left hand side of the existing access.

THE SITE

- The site comprises Unit 3 (previously approved as part of Unit 2), Springfield Retail Park, Edgar Road, Elgin. It is currently approved for Class 1 non-food retail use and occupied by New Look.
- The existing unit covers two floors and has a total floor area of approx. 1300sq m.
- The existing unit along with all other units within the retail park are arranged around, and share, an area of car parking located to the front of all units.
- All units in the retail park are approved for Class 1 non-food retail use, except for a café (Costa) (a Class 3 use, 157sq m).
- Commercial uses are also found to the north and west of the site, with residential properties and the Doocot Park to the south and east respectively.

<u>HISTORY</u>

08/00802/FUL - Vary condition 1 of planning permission MP/849/86 as subsequently varied by planning permission 00/00473/FUL under section 42 of the Town and Country Planning (Scotland) Act 1997 to allow for the sale of open class 1 non-food goods - approved 25 February 2009 but decision reduced following Judicial Review by the Courts. The application was then remitted back to the Council and approved on 28 August 2011. After a further petition for Judicial Review, which was refused by the Courts on 4 May 2012, the formal decision notice as dated 28 August 2011 remains i.e. permission granted subject to conditions allowing for Class 1 non-food retail use and a requirement that no proposals, internal or external, which alter or affect the existing unit in terms of the number of units and/or gross floorspace of the premises occur without the prior consent of the Council. (This permission, along with 08/00801/FUL and 08/00803/FUL relate to units within Springfield Retail Park now occupied by operators including Currys, B&M and Sports Direct, etc.).

88/00253/FUL - Erect Phase 2 of retail development at Edgar Road - approved 24 October 1989 subject to conditions regarding the nature and type of retailing (Condition 2), any subdivision to be not less than a minimum of 1000sqm gross space (Condition 3), and that retailing of food or groceries shall not be permitted (Condition 4). (This permission refers to units within Springfield Retail Park now occupied (after being extended) by Carpetright, Boots, Next, Costa, JD Sports, New Look and Currys).

00/00472/FUL – Substitute condition no 2 of consent 88/00253 with "the sale of goods restricted to household goods (such as carpets, furniture and electrical goods) and bulky DIY items of the type sold in retail warehouses and all items ancillary to the foregoing" - approved 14 June 2000 subject to a condition that the consent is for non-food retailing.

00/00485/FUL – Delete conditions no. 3 and no. 4 attached to planning consent 88/00253 at Springfield Retail Park – approved 14 June 2000 but subject to condition that the consent is granted solely for non-food retailing.

05/00145/FUL – Vary condition 2 of consent 00/00472/FULL to allow for the sales of open Class 1 non-food goods from Units 2a, 2b and 2c at Springfield Retail Park – approved 29 March 2006.

06/02603/FUL – Erection of open Class 1 non-food extension to existing retail park at Springfield Retail Park (eastern infill extension of Unit 2) – approved 22 January 2008.

06/02617/FUL – Erection of open Class 1 non-food extension to existing retail park at Springfield Retail Park (western infill extension of Unit 2) – approved 22 January 2008.

12/02113/APP – Sub-division and change of use of retail unit from Class 1 (retail) to combination Class 1/Class 3 coffee shop and associated internal and external alterations at Unit 1 Springfield Retail Park – approved 15 March 2013 subject to the uses being restricted to Class 1 non-food retailing and Class 3 (for café).

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

- Advertised as a Schedule 3 development (bad neighbour).
- Advertised as a departure from the development plan.

CONSULTATIONS

Development Plans – No objection. The additional information provided by the applicant helps to justify the floorspace requirements. Whereas 929sq m/10000sq ft is advised in the applicant's assessment as the operator's minimum space, the proposed floor area in the application at 823sq m/8858sq ft is below the minimum, suggesting a compromise on space has already been made. The information is sufficient to demonstrate that a sequential approach to site selection has been undertaken and consideration has been given to the impact on the town centre. The scale and form of the proposal is considered unlikely to have significant adverse impacts on the vitality and viability of the town centre,

the floor space is not new space but utilises existing trading space, and any change in impact as a result of the change in use is likely to be low.

Developer Obligations – No developer obligations sought.

Transportation – No objection. Trips associated with the retail unit are likely to already be on the network given the current use and will not have an impact on network operation and car parking capacity, hence trips generated by the retail unit have not been considered. Following provision of TRICS data, the trip rate parameters are not representative of the proposal and to ensure robustness, Transportation has used more appropriate parameters to reflect the demographics of Elgin. This does not result in a material increase in traffic on the surrounding network and there will be no significant impact on the surrounding road network. There is adequate capacity within the existing car park to accommodate the demand associated with the gym as demonstrated in the parking survey.

Environmental Health – No objections however informative notes provided on health and safety regulations.

SEPA – Refer to standing advice.

Moray Flood Risk Management – No objections.

Building Standards – A Building Warrant is required.

Scottish Water – No objections but this does not confirm that the development can be serviced and being unable to reserve capacity at water and waste water treatment works, further appraisal required once full planning permission granted.

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).

Three representations received from:



The main issues of the representations are set out below.

Issue: Granting of permission would set an undesirable precedent and create problems for the Council in refusing similar applications for subdivision and/or leisure use in retail parks in the future.

Comments (PO): Whilst planning history is a material consideration, each application is considered on its own individual merits including, in this case, demonstration of the sequential approach.

Issue: The applicant must submit a sequential assessment and conduct a retail impact assessment.

Comments (PO): Given the size and form of the proposal, and the fact that the proposed change of use is not retail, no retail impact assessment has been sought/provided. Information has been provided to demonstrate application of the sequential approach to support the location for the proposed use.

Issue: The old Junners Toy Shop at 57/61 South Street is currently vacant and contains enough floor space to accommodate a gym. Plans for a gym were drawn up though the (contributor's) project did not proceed to application stage following the EU referendum in 2016 and subsequent funding problems.

Comments (PO): In the supporting information, the current applicant's sequential approach evaluated the use of 57/61 South Street for the proposed gym. Here, it was determined the floor space and ceiling heights are insufficient and the location is not suitable for the use of the gym operator. The commercial and political-based reasons advanced by the contributor are neither material planning considerations nor a basis to reject this current application.

Issue: Vacant block at 77, 79-83 High Street and 4 Lossie Wynd (former Poundworld and Elgin Antiques Centre) has sufficient space for a gym use.

Comments (PO): From the supporting information, the sequential approach has evaluated that the use of these buildings would not meet the format required by the gym operator, particularly in terms of necessary floor to ceiling height and overall floor space required. The site also lies in an area designated as the Core Retail area, where ground floor retail use is the preferred use.

Issue: Adverse impact on vitality and viability of Elgin town centre, contrary to Policy R2. **Comments (PO):** The proposal is considered to comply with Policy R2 (see Observations section below).

Issue: The circumstance of New Look PLC undergoing a company voluntary agreement and the subsequent review of their tenancy is not a reason in itself to sub-divide the unit. **Comments (PO):** The circumstances of the current tenant are not a material planning consideration nor have they been considered as part of the determination of this application.

Issue: Parking issues at the retail park will be exacerbated.

Comments (PO): A parking survey has been provided in support of the application, which demonstrates that there is sufficient parking within the retail park to accommodate the proposed use. The Transportation Manager has not objected to the application on this basis.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. The main issues are considered below.

As detailed in the history above, the retail park was first granted planning permission in 1987 but the unit in question formed part of a second phase of that development, as
granted in 1989. Springfield Retail Park has continually operated with its use for Class 1 non-food retailing defining its principle character and function.

If this application is approved, it would be the first leisure use within this retail park and thus it represents a significant amendment to the basis upon which the Council first considered the use of the unit. The proposal involves re-use of existing floorspace, up to approx. 845sq m out of 9880sq m or approx. 8.5% of the total floor at Springfield Retail Park. The earlier approved Class 3 café use represents 1.67% of total floor space.

For reasons set out in the applicant's supporting statement, the owner of the retail park is reviewing the existing retail operator's (New Look) tenancy. Whilst not specifically named, the prospective tenant for the new gym would be an operator new to Elgin and would operate 24 hours a day/7 days a week. The identified gym operator's requirements also include a minimum size of unit of approx. 10000sq ft on and over a maximum of two floors, a building with a good floor to ceiling height, a highly visible location within a dense population catchment and easy access to parking or close to major transport links.

As well as being advertised as a "Schedule 3" development (colloquially known as a "bad neighbour" development which includes use as a gymnasium), the application was also advertised as a departure from Policy R2 of the Moray Local Development Plan 2015 (MLDP) on the basis that no information about the sequential approach to selecting the site for this leisure proposal was provided with the application. The sequential approach is also advocated and informed by planning policy at a national level, as set out in Scottish Planning Policy (SPP). Further information about the required approach was subsequently provided by the applicant in support of the application and as such the application is no longer regarded as a departure from the development plan on those terms (see below).

Leisure Use within Commercial Centre (R2, IMP2)

The application proposes a change of use of part of an existing retail unit into a gym. The MLDP identifies Springfield Retail Park as a Commercial Centre, which is identified within the hierarchy of centres specified under Policy R2. The sequential approach gives preference to the siting of high footfall generating uses (including leisure uses) in town centres and edge of town centre sites over commercial centres and out of centre locations. Proposals must therefore demonstrate that they have undertaken a sequential approach and assessed town centre sites in order to justify that the chosen site for the proposed use cannot be reasonably accommodated within the town centre.

Policy R2 applies here because it is considered that the proposed gym would likely result in significant footfall and although a retail impact assessment is not considered appropriate (see below), the proposal would use part of an existing retail development which already satisfies a number of the requirements of Policy R2, whether in terms of its building design (which has previously been considered to be acceptable in terms of its contribution to the built environment), the proposed continuing use of the existing (and previously approved) access, parking and drainage infrastructure, and also in terms of the proposal affording opportunities for access by public transport, pedestrians, cyclists and the disabled.

As provided, the sequential approach assessment gives an evaluation of the following vacant properties identified to be of an appropriate size within or on the edge of Elgin town centre (as defined in the MLDP):

• 57/61 South Street (former Junners Toy Shop) – Town Centre

- 77, 79-83 High Street and 4 Lossie Wynd (former Poundworld and Elgin Antiques Centre) Town Centre
- Elgin South Church (former Spire Roxx) Edge of Town Centre

In appraising these sites, the sequential assessment found that none of the properties were suitable or provide sufficient floorspace that modern gym operators require, along with insufficient floor to ceiling clearance for fitness equipment. Irrespective of availability, sites are also discounted owing to their lack of flexibility in useable floorspace, on-site parking issues, and the need for refitting/refurbishment of existing town centre or edge of centre buildings (some of which are listed and or within Elgin High Street Conservation Area).

The sequential approach also details that the format of the operator is such that only out of town/retail park sites will be considered for Elgin, particularly in terms of parking. The assessment also concludes that the required retail park floorspace could not reasonably be accommodated within the town centre based upon the Council's Town Centre Health Check 2018, which does not identify any 800sq m-sized site in the town centre, and disaggregation of the leisure floorspace across several units is not a realistic proposition.

With regard to the smaller retail unit that would result from the proposal, the supporting information advises that marketing of the unit in its current format has been unsuccessful, noting that a challenging retail market has seen demand for larger retail units fall. However, a new retailer to Elgin is keen to take on a smaller unit in the retail park should the proposal come to fruition. With change of use as proposed, part of the existing retail unit will remain available for Class 1 non-food retailing. Notwithstanding the reduced size of unit, its continuing use for Class 1 non-food retailing would remain appropriate within, and relate well to the approved use of, Springfield Retail Park. With the reduction in unit size, any direct and/or adverse impact on town centre vitality and viability would also be reduced.

Although Policy R2 refers to requirements for retail impact assessment, this would not be appropriate here: the proposal is not of retail use, the proposal does not result in new additional floorspace but re-use of an existing unit and changes in use of units to introduce a café (on Springfield Retail Park) and a 525sq m gym now operating from Elgin Retail Park were similarly not subject to such assessment. Additionally, the size of the unit is smaller than that which might otherwise be subject to formal assessment by reference to SPP and/or retailing considered under Policy R3 (neighbourhood and local shops, etc.). Overall, the proposed leisure use is not considered to have an unacceptable or significant adverse impact on the vitality and viability of town centres.

On the basis of the submitted information, the proposals are considered to have addressed the sequential approach and being acceptable in other respects, the proposal is considered to comply with Policies R2 and IMP2. With the gym, the proposal is not considered to be of sufficient size and form as to adversely and unacceptably alter and change the character, role and function of Springfield Retail Park.

Access and Parking Provision (T2, T5)

The existing access and parking arrangements within the retail park would remain unaltered as part of this proposal. To support the proposal, information on trip generation (TRICS data) and parking provision (Parking Survey) was provided at the request of the Transportation Manager. However, as the information provided is an analysis of a population within 1 and 5 miles of the site, which is far in excess of the current population of Elgin and its environs, the Council's Transportation Section has re-assessed the TRICS data so that it is more appropriate to the local population, finding that the proposed gym use would result in a higher trip rate than those reported (35 as opposed to 24 trips during the PM peak period (17:00 – 18:00hrs)). Nonetheless, the Transportation Manager is content that, after re-appraisal, there would be no material increase in traffic and no significant impact on the surrounding road network.

With regard to parking, the parking survey demonstrated that there is adequate capacity to accommodate the demand associated with the gym proposal.

The Transportation Manager has no objections to the proposals and the proposals are therefore considered to comply with policies T2 (Provision of Access) and T5 (Parking Standards).

External Alterations (IMP1)

In order to accommodate the sub-division, minor amendments are proposed to the existing front entrance to the retail unit, as well as the creation of a new entrance for the gym. The amendments are considered to be suitable, utilising materials to match the remainder of the frontages within the retail park, and would occupy a relatively small area in the frontage of the building. These minor amendments would not have an adverse impact on the appearance of the units within the retail park or the character of the surrounding area. The proposals are therefore considered to comply with Policy IMP1.

Flood Risk (EP7)

Part of the site falls within an area identified as being at risk from a 1:1000 year fluvial flooding event. Both Moray Flood Risk Management and SEPA raise no objections to the development, noting that the existing retail use and proposed leisure use fall within the same category of land use vulnerability in SEPA's standing advice to planning authorities on control of development in flood risk areas. As such, it is considered the proposals do not conflict with Policy EP7.

Impact on Amenity (IMP1)

A residential area in New Elgin is located to the south of the unit, with the nearest residential properties being on Dean of Guild Way. Apart from rear fire exit doors, no addition of external plant and machinery to service the proposed use (e.g. air conditioning units) is shown on the application drawings. Were these necessary, a further application for planning permission would be required.

In terms of noise emissions from the gym, the main concern for such uses would lie with music from within the gym, however subject to this being managed/controlled together with consideration over the intervening distance and internal insulation between premises and in the absence of additional plant and openings in the building, etc. no significant or unacceptable adverse noise impact is anticipated. The Council's Environmental Health Service has not objected to the application on the basis of potential adverse impacts on the amenity of the surrounding area, however any complaints with regard to noise would ultimately be dealt with by the Council's Environmental Health Service under separate legislation.

As Class 11 use covers a wide range of potential uses, a condition is recommended to restrict any permission being granted to that as applied for i.e. as a gym in order that further consideration can be given to the impact of any other (Class 11) use in relation to

planning policy (including Policy R2 and sequential approach requirements) and upon the character, amenity and appearance of Springfield Retail Park and the surrounding area.

Matters Raised in Representations

The matters raised in the representations received have been addressed in the summary under Representations.

REASON(S) FOR DECISION

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

The proposal is considered to comply with the requirements of the Moray Local Development Plan 2015 and there are no material considerations that would indicate otherwise.

Author/Contact Officer: Andrew Miller Planning Officer **Ext:** 01343 563274

Beverly Smith Manager (Development Management)

<u>APPENDIX</u>

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP1: Sustainable Economic Growth

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

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. 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 National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. 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.

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 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 extreme 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 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
- Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- 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 flow), and
- An alternative, lower risk location is not available and
- 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 should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

Policy T5: Parking Standards

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

Policy R2: Out of Centre Development of Retail, Commercial and Leisure Proposals

Outwith town centres retail development proposals (including extensions) and other uses generating significant footfall such as leisure or public buildings, must:

- a) comply with the sequential approach which requires that locations for new development be considered in the following order of preference:
 - Principal and Other Town Centre Sites;
 - Edge of Town Centre Sites;
 - Other Commercial Centres identified within the Table 1 "Retail Centres and Roles";
 - Derelict or vacant land in out of centre locations that are or can be made easily accessible by pedestrians and a choice of modes of transport;
 - Out of centre sites in locations which are, or can be made, easily accessible by pedestrians and a choice of modes of transport;

- b) demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, this being demonstrated where appropriate, by a Retail Impact Assessment,
- c) meet any requirements for linking development to existing infrastructure including roads access, parking, as demonstrated by a Transport Assessment, sewerage, water run-off and Sustainable Urban Drainage Systems (SUDS),
- d) provide specific opportunities for access by public transport, pedestrians, cyclists and the disabled, and
- e) contribute positively to the built environment of the area by having a high standard of design.

Proposals outwith settlement boundaries will not be acceptable, with the exception of specialist retailing associated with tourism which should be considered against Policy R3 and roadside facilities which should be considered against Policy T3. Small shops intended to meet the convenience needs of a local neighbourhood should be considered against Policy R3.

Policy IMP1: Developer Requirements

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.

- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- I) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP2: Development Impact Assessments

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

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

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

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

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail

the necessary facilities and infrastructure and the scale of contributions likely to be required.

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

CC: Commercial Centre - Edgar Road

It is recognised that Edgar Road is an established retail area and this area is identified as a Commercial Centre within Table 1 "Retail Centres and Roles" within Policy R2. This is the preferred location for bulky good and comparison outlets if no town centre or edge of town centre sites are available. The area is currently characterised by convenience, bulky goods, and comparison retailing. This area has helped to maintain the area's competiveness with Inverness and Aberdeen. A flood risk assessment may be required for any planning application within this area.

Policy T2: Provision of Access

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

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 18 SEPTEMBER 2018

- SUBJECT: 18/00978/PAN PROPOSAL OF APPLICATION NOTICE RESIDENTIAL DEVELOPMENT CONSISTING OF 90 NO PRIVATE AND AFFORDABLE DWELLINGS INCLUDING ACCESS LANDSCAPE AND DRAINAGE (SUDS) AT PITGAVENY ROAD ELGIN
- BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted (received) on 12 July 2018 by Robertson Homes Limited & Hanover Housing Ass.
- 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. <u>RECOMMENDATION</u>

- 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 preapplication 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 the 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 residential development, to comprise 90 private and affordable dwellings together with access, landscaping and drainage infrastructure. The PAN includes a Location Plan (Appendix 1) which defines the extent of the proposed development site. No house design and site layout arrangements etc. for the development are included.
- 3.5 As defined, the site is located along the eastern edge but within the settlement boundary of Elgin (Proposals Map, Elgin settlement statement, Moray Local Development Plan (MLDP) 2015 refers). The irregular shaped site straddles the southern part of Pitgaveny Road including land on its eastern side but bounded by Calcots Road to the south. The remaining larger part of the site, on the western side of the road, is bounded to the west by existing residential development at Lesmurdie House and off Chandlers Rise, and to the north the site is bounded by existing trees and an existing field track. An overhead transmission line, trending north west – south east, crosses through the site.
- 3.6 As defined, the site is the subject of a site specific designation within the MLDP 2015 as Elgin R14, Lesmurdie Fields (**Appendix 2**). The proposed amount of development (90 dwellings) would exceed the stated indicative capacity of the designation, which is 70 houses. However, Policy H1 advises that capacity

figures are indicative and actual proposed capacity will be considered against the characteristics of the site and conformity with Policies PP3 (Placemaking), H8 (Affordable Housing) and IMP1 (Development Requirements). In practice, a number of relevant and/or related policies and other material considerations will also apply and inform the development, including its formal determination.

- 3.7 In terms of the Elgin Proposals Map, land in the southern and western parts of the site/the designation, on both sides of Pitgaveny Road, are identified as suitable for housing and thereafter, progressing north eastwards across the site, the areas of housing would be bordered by public open space and then new woodland structure planting. The latter are identified as part of the site-specific requirements for the Elgin R14 designation.
- 3.8 Indeed, from **Appendix 2**, the site-specific matters which require to be addressed, as part of any development on the site, include reference to advance planting, open space (including linked spaces below the power lines), flooding and drainage (including measures to ensure no adverse effect upon the integrity of Loch Spynie Special Protection Area), proximity to watercourse, habitat surveys, transportation and design principles. The latter need to ensure that any transportation improvements required/ proposed for Elgin, R14 do not compromise delivery of the longer term growth area planned to the north i.e. Elgin LONG 1 North East and that design and layout principles for Elgin R14 integrate with both the existing urban area and the future north east expansion area (to be subject to a masterplan which has yet to be prepared).
- 3.9 Planning permission is required for this proposal. Relevant to the current Hierarchy Regulations and based upon a development comprising 50 or more dwellings, the proposal would comprise a major development for planning purposes. As such, the proposal would be subject to PAN and pre-application consultation with the local community procedures. The applicants have 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.
- 3.10 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 applicants propose to consult with, and have already served a copy of the PAN upon, Elgin Community Council and Innes Community Council. Whilst no other parties require to be notified or consulted on the PAN, the applicants have been advised that a copy of the PAN should be served upon the Elgin North Area Forum in the event that this Forum becomes operational by the time of submission of any formal application for the development as proposed. (This is consistent with other PANs proposing development on the northern side of Elgin). The applicants have been advised that if any or both of the Community Councils (and the Forum) invite them to attend their meetings to discuss the proposal then they should agree to any such request.

- 3.11 The PAN advises that a public consultation event will be held however no details have been provided about the exact format, date, time and venue for that event. Accordingly, the applicants have been advised that the confirmation given about their proposed engagement with the local community is subject to the applicants submitting further details for their event to the Council, as Planning Authority prior to advertising and hosting the public event, to ensure that the event arrangements are appropriate.
- 3.12 The event requires to be advertised locally in advance and allow an opportunity for feedback upon the proposal. For validation purposes for a major application, the applicant is required to submit a pre-application consultation report setting out the steps taken to consult with the local community together with 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. <u>SUMMARY OF IMPLICATIONS</u>

(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

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, Legal Services Manager (Property and Contracts), Manager (Development Management), the Equal Opportunities Officer, Gary Templeton (Principal Planning Officer), 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. <u>CONCLUSION</u>

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 a residential development consisting of 90 private and affordable houses and associated infrastructure (access, drainage and landscaping). 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:	Angus A Burnie, Principal Planning Officer
Background Papers:	PAN as received including Appendix 1
Ref:	18/00978/PAN

PITGAVENY ROAD, LESMURDIE





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APPLICATION NO: 18/00978/PAN

Elgin R14: Lesmurdie Fields

This site has been identified as being effective to deliver housing in the shorter term and capable of being brought forward in advance of the larger north-east expansion area identified as LONG1 North East subject to:

- Advance planting in accord with the Carol Anderson Landscape Associates' Report October 2013. This must be agreed with the Council beforehand and indude details of species, densities, distribution and sizes of new planting. The planting must be established before development commences;
- Planting and development along Pitgaveny Road to enhance the policy woodland at Lesmurdie House and retain existing boundary features such as stone dykes to maintain the sense of arrival into Elgin;
- Open space below the power lines to be secured in a coherent sequence of linked parks and/or green-space which provides non-vehicular access around the town and links to neighbouring allocations;
- A Transport Assessment (TA) for the overall development of this site and LONG1 North East. This should consider the strategic road network incorporating a bus corridor that must link Lesmurdie Road and the A941*;
- Vehicular and non-vehicular linkages into neighbouring allocations to ensure the site is connected to the wider area;
- Agreement of key design principles to ensure a layout and design which ensures integration with the future north-east expansion area as well as the existing urban area**;
- Development run off should match pre- development run off and this should be achieved through the use of appropriate levels of Sustainable Urban Drainage. The proposal should demonstrate that it will not adversely affect the integrity of the Loch Spynie SPA designation;
- Flood risk may constrain parts of the site and a flood risk assessment will require to be submitted. Water resilient measures should be considered as part of this;
- A walkover and photographic survey of habitats is required to assess the presence of wetlands; and,
- A buffer strip of at least 6 metres between the watercourse and development is required.

*The scoping process should ensure that the necessary improvements to the transport network will be proportionate to this proposal but will avoid compromising delivery of the longer term growth area.

**This is required to enable the site to proceed in advance of the masterplan whilst securing a planned approach to longer term housing land release in Elgin north-east.



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 18 SEPTEMBER 2018

- SUBJECT: 18/01083/PAN PROPOSAL OF APPLICATION NOTICE PROPOSED RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ROADS, INFRASTRUCTURE, LANDSCAPING AND BOUNDARY TREATMENT AT SITE R1, GRANTOWN ROAD, KNOCKOMIE, FORRES
- BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was received on 13 August 2018 on behalf of Tulloch Homes Limited, Stoneyfield Business Park, Inverness.
- 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. <u>RECOMMENDATION</u>

- 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 be forwarded also 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 preapplication 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 PANs 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 the 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 be taken into consideration when preparing any future planning 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 The PAN relates to the proposed residential development and associated roads, infrastructure, landscaping and boundary treatment on the Forres R1 Knockomie (South) site, as identified in the Moray Local Development Plan (MLDP) (2015). It also takes in an additional parcel of land that is not subject to any formal designation (i.e. white land) within the northwest corner, to the west of R1 which is within the settlement boundary. Overall, the site extends to approximately 7.5 ha in total and is currently farmland. No design details or site layout arrangements have been provided at this stage. A plan is appended showing the location and extent of the proposed site (**Appendix 1**). The site is located to the south west of Forres, and is bounded to the north by housing, the A940 Grantown Road and housing to the east, Knockomie Hotel to the west, Whiterow Farm to the southwest and woodland/farmland to the south.
- 3.5 The Forres R1 designation within the MDLP 2015 identifies the site as being suitable for a maximum capacity for 85 houses of medium to low density housing within a 6.7 hectares site. The designation highlights various matters that any future development proposal(s) will need to consider. These include retention of existing trees on the site and planting of an avenue of feature trees along the Grantown Road frontage; the setting of the 'B' listed Knockomie Hotel requires to be safeguarded by retaining an open aspect east of the hotel; houses should present a frontage to Grantown Road (with high wooden fencing unacceptable); and planting of feature trees along the Grantown Road to present an attractive gateway into the town. The designation also requires provision of a Transport Assessment and Noise Impact Assessment to evaluate traffic and potential noise from the hotel on adjacent residential properties. A badger survey will also be required along with a species survey and protection plan. Lastly, the site should incorporate a radial cycle route linking Grantown Road and the minor road at Balnageith.

The additional land within the northwest corner would be subject to assessment against policy H1 Housing Land which allows for new housing on land not designated for housing within settlements subject to provisos, i.e. the proposal does not adversely impact the surrounding environment, adequate servicing/infrastructure is available, the site is not designated for an alternative use and the primary policies are met.

- 3.6 The additional land within the northwest corner would be a "windfall site" within a settlement and as subject to assessment against policy H1 Housing Land which allows for new housing on land not designated for housing within settlements subject to provisos, i.e. the proposal does not adversely impact the surrounding environment, adequate servicing/infrastructure is available, the site is not designated for an alternative use and the primary policies are met.
- 3.7 Relevant to the current Hierarchy Regulations and for residential development on a site which exceeds 2 hectares and for a proposed development of more than 50 houses, the proposal would be a major development for planning purposes. As such, the proposal would be subject to PAN and pre-application consultation with the local community procedures. The applicant's agent has also 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.
- 3.8 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's agent has served a copy of the PAN on the Forres Community Council.
- 3.9 As part of their pre-application consultation procedures, the applicant's agent has already sent a copy of the PAN to the Forres Community Council. The agent has been advised that the Forres Area Forum, Forres Community Woodlands Trust and Forres Footpaths Trust should also be consulted. A public exhibition will be held at a venue local to the site, with date and place to be confirmed along with a subsequent drop-in event to allow one-to-one discussion and an offer to present the proposal to the local Community Council. The proposed event will require to be advertised locally prior to the event and allow an opportunity for feedback upon the proposal. For validation purposes for a major application, the applicant is required to submit a preapplication 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.
- 3.10 In terms of planning history, the site was the subject of detailed planning application for a 90-house development in 2007 (reference 07/02733/FUL). An appeal against non-determination of this application was lodged in 2008 and subsequently dismissed by the Scottish Government in June 2009.
- 3.11 The site is not subject of any statutory, natural heritage or other cultural heritage designation, except in relation to identified areas of archaeological interest which include various prehistoric features (which were subject of a

previous archaeological evaluation in 2007 in advance of housing development on adjacent land to the east).

4. <u>SUMMARY OF IMPLICATIONS</u>

(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 priorities for economic development and improved placemaking in Moray.

(b) Policy and Legal

Scottish Government guidance on the role of Councillors in preapplication 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

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, Paul Nevin (Senior Solicitor), Manager (Development Management), the Equal Opportunities Officer, Gary Templeton (Principal Planning Officer), and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

5. <u>CONCLUSION</u>

5.1 The Council has received a PAN intimating the intention that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for the proposed residential development and associated roads, infrastructure, landscaping and boundary treatment on the Forres R1 Knockomie (South) Site, Grantown Road, Forres. 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:

Richard Smith, Senior Planning Officer

Background Papers: Ref:



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REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 18 SEPTEMBER 2018

SUBJECT: MORAY LOCAL DEVELOPMENT PLAN 2020- MORAY LOCAL LANDSCAPE DESIGNATIONS REVIEW- DRAFT REPORT

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 This report asks the Committee to approve the Moray Local Landscape Designations Review- Draft Report, which proposes a series of new candidate Special Landscape Areas (SLA's) for consultation, with the final SLA's replacing the current Areas of Great Landscape Value (AGLV) and Coastal Protection Zone (CPZ) designations.
- 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. <u>RECOMMENDATION</u>

It is recommended that the Committee:

- note the candidate SLA's set out in the Moray Local Landscape Designations Review Draft Report which has been issued separately with this agenda;
- ii) approve the Moray Local Landscape Designations Review Draft Report for consultation; and
- agree that a report setting out consultation responses be considered at a special meeting of this Committee on 5 December 2018 and thereafter the SLA designations be incorporated into the Proposed Moray Local Development Plan 2020.

3. BACKGROUND

- 3.1 Scottish Planning Policy (SPP) requires local authorities to identify and protect locally designated areas and to clearly explain the reasons for their designation. Local landscape designations are regarded as a valuable tool in the development plan, reflecting the values that communities attach to their local place and the valuable social, economic and environmental asset they provide. Designation informs their future care and management and contributes to our environmental stewardship. Moray's outstanding natural environment, including our coastline, mountains, moorlands and river valleys are recognised internationally and safeguarding our most valued landscapes supports the Council's environmental, economic and social aspirations.
- 3.2 The Moray Local Development Plan (MLDP) 2015 and previous Local Plans identify significant geographic areas of Moray as AGLV designations with supporting policy E7. However, it is understood these designations were made over 30 years ago and have no background documentation to record their reasons for designation, which has resulted in a designation which has limited status in planning terms, with no evidence base to support the designations when challenged. In addition to the AGLV designations, the MLDP2015 includes a CPZ, 5 Countryside Around Town (CAT) designations and an Area of Special Control at Pluscarden.
- 3.3 As highlighted in the Main Issues Report approved for consultation by this Committee in December 2017 (para 2 of minute refers), the pressure on Moray's landscape continues with major road and energy projects, cumulative housing in the countryside, settlement expansion and forestry proposals all impacting or potentially impacting upon landscape quality.
- 3.4 A blank canvas review of landscape has been undertaken, with expert advice commissioned to lead on the field work and evaluation, supported by a Steering Group of Moray Council planners, the Regional Archaeologist and Scottish Natural Heritage (SNH) staff. The aim of the review is to identify SLA's, their reason for designation and to rationalise the number of landscape related designations for inclusion in the Proposed MLDP 2020.

4. PROPOSALS

- 4.1 The review has been carried out broadly in accordance with the 2006 Historic Scotland/SNH Guidance on Local Landscape Designations, but updated where relevant with the 2017 draft guidance. The draft Study has been issued separately with this agenda. The study was undertaken in two stages.
- 4.2 Stage 1 Evaluation, involving;
 - evaluation of all landscapes within Moray resulting in the definition of candidate areas for local designation. This has been informed by the revised SNH landscape character assessment for Moray, the 2017 Wind Energy Landscape Capacity Study and settlement capacity studies, additionally informed by detailed knowledge of Moray's landscapes, which resulted in 32 landscape character units being identified for assessment.
 - a more detailed assessment of candidate areas involving field work to define boundaries and landscape qualities and preparation of Statements of Importance. This has included considering nature conservation

designations, historic environment designations, SNH wildness mapping, core paths and other recreational interests.

- considering consented development to form part of the landscape and visual baseline. The most significant landscape change likely to be associated with such developments is the consented Dorenell wind farm located in the Cabrach area, which is currently designated as an AGLV. Route options for the proposed dualling of the A96 have also been reviewed and any potential effects on candidate SLA's are set out in the study. Cross boundary landscape designations have also been considered particularly where Moray abuts the north coast and Deveron valley SLA's in Aberdeenshire.
- Analysis of all 32 landscape character units and scoring against key criteria, using well-reasoned judgements based on thorough field work and assessment.
- The evaluation focusses on the key landscape character and qualities identified and rates these on a five point scale of high (5), high-medium (4), medium (3), medium-low (2) and low (1) as set out in the table in Appendix 2. No weighting has been applied to individual criterion. Landscapes scoring 18 and over are highlighted in Table 2 and it was agreed with the Steering Group that these should proceed to Stage 2 for detailed assessment as candidate SLA's.
- 4.3 Stage 2 evaluation, which involved;
 - Considering the higher scoring landscape character types identified during the Stage one evaluation resulted in the following 13 candidate SLA's being defined, see plans in **Appendix 1**;

The Culbin to Burghead Coast The Burghead to Lossiemouth Coast The Lossiemouth to Portgordon Coast The Portgordon to Cullen coast Lower Spey Cluny Hill Spynie The Pluscarden Valley Quarrelwood River Findhorn and Wooded Estates The Spey Valley Ben Rinnes Deveron Valley

4.4 Draft Statements of Importance for each of the proposed candidate SLA's have been prepared, explaining the boundaries selected for the candidate area and summarising the reasons for designation. A fuller description of the character and special qualities of the candidate SLA's is provided with the reasons for designation which should be used to inform any decision on development which may adversely affect the designated landscape.

5. <u>NEXT STEPS</u>

- 5.1 Further refinement is required to the proposed boundaries and this will be an important aspect of the consultation, especially when considering whether towns and villages should be included within candidate SLA's. The policy supporting the type of development acceptable within the SLA's will be set out in the Proposed MLDP2020 when reported to the special meeting of this Committee on 5 December 2018. The policy is likely to be similar to the current policy for the CPZ, restricting the types of development acceptable and promoting the highest standards of design and siting.
- 5.2 It is proposed to consult on the candidate SLA's from late September through to the end of October which will include press releases, direct mailing to consultees, community groups, developers, social media and a drop in exhibition event. All responses will be collated, analysed and reported back to the special meeting of this Committee on 5 December 2018, with the final SLA's included in the Proposed Plan.
- 5.3 The current AGLV's, CPZ and Pluscarden Special Area of Control will be deleted from the new LDP and replaced by the SLA's to rationalise the suite of environmental designations. The candidate SLA's at Quarrywood and Cluny Hill will form part of the CAT designation around Elgin and Forres respectively.

6. <u>SUMMARY OF IMPLICATIONS</u>

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

SLA's will be an important designation, safeguarding Moray's outstanding landscapes from inappropriate development. Moray's quality of environment is a vital aspect of supporting and facilitating the Council's priority for economic growth, attracting investment and visitors.

(b) Policy and Legal

SLA designations will form part of the statutory LDP.

(c) Financial implications

Commissioning expert landscape advice to identify candidate SLA's has cost £10,000. The cost has been minimised as Council officers have carried out field work, digital mapping and graphics work on the project. The project has also been supported through considerable expert input by working in partnership with the Regional Archaeologist and staff from SNH.

(d) Risk Implications

The current AGLV designation continues to fail to achieve its objectives to safeguard Moray's most special landscapes from inappropriate development, which brings a high level of risk.

The new SLA designation with supporting policy reduces risk of Moray's landscape quality being eroded.

(e) Staffing Implications

Work on identifying SLA's forms part of the review of the MLDP and has been undertaken within current staffing, with expert advice procured as required.

- (f) Property None.
- (g) Equalities/Socio Economic Impact None.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager (Property & Contracts), the Equal Opportunities Officer, Paul Connor (Principal Accountant), the Moray Access Manager, the Development Management Manager and Lissa Rowan (Committee Services Officer) have been consulted and their comments incorporated into the report.

7. <u>CONCLUSION</u>

- 7.1 Moray's outstanding quality and diversity of landscapes contributes significantly to quality of life and brings significant economic investment through tourism and business.
- 7.2 The current AGLV designation has very limited value in planning terms, as the individual designations are not supported by any evidence base setting out their special qualities. Moray's landscape is under considerable pressure from national and regional infrastructure projects, settlement expansion and housing in the countryside.
- 7.3 A review has been undertaken to designate candidate SLA's, which will be subject to public consultation with the final SLA's being incorporated into the Proposed MLDP2020.

Author of Report:	Gary Templeton, Principal Planning Officer
Background Papers:	
Ref:	



moray

ef	Name
1	Ben Rinnes
2	Burghead to Lossiemouth Coast
3	Cluny Hill
4	Culbin to Burghead Coast
5	Deveron Valley
6	Lossiemouth to Portgordon Coast
7	Lower Spey Valley
8	Pluscarden Valley
9	Portgordon to Cullen Coast
10	Quarrelwood
11	River Findhorn and the Woodland Estates
12	Spey Valley
13	Spynie
0."	Recentled Bernete
0.7	Brouting Broute State














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moray





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Appendix 2

Landscape character type	Landscape character unit	Unit reference	Score	Other considerations
Soft Coast	Culbin to Burghead	1a	24	Connection with 1b, 3a and Roseisle Forest in 3b
	Lossiemouth to Portgordon	1b	21	Connection with 1a ,2b and parts of 3b
Hard Coast	Burghead to Lossiemouth	2a	24	
	Portgordon to Cullen	2b	21	SLA present west of Cullen in Aberdeenshire. Strong links to Bin of Cullen and Cullen House Inventory listed designed landscape.
Coastal Forest	Culbin	3a	22	
	Other coastal forests	3b	13	Part of Roseisle Forest well used for recreation and strongly connected to 1a. The coastal edges of forests lying next to the Lossiemouth to Portgordon coast (1b) provide a setting to the coast and accommodate some recreational routes and archaeological interest.
Coastal Farmland	Coastal Farmland	4	13	
	Deskford Valley	4a	15	
	Lower Spey/Gordon Castle policies	4b	24	Links with 7 but also with Gordon Castle Inventory listed designed landscape.
	Cluny Hills	4c	20	A relatively small unit adjacent to Forres
	Spynie	4d	23	Historic links to the coast (1b)
	Duffus Basin	4e	16	Historic links to the coast (1b)
Rolling Farmland and Forest	Rolling Farmland and Forest	5	7	
	Rolling Farmland and Forests: Valley Fringes	5a-i	14	
	Pluscarden valley	5a - ii	20	A strongly contained landscape with little connection with adjoining areas.
	Kellas Valley	5a - iii	15	
	Quarrelwood, Elgin	5a - iv	20	A relatively small unit adjacent to Elgin
	Darnaway	5b - i	22	Connection with Findhorn valley (6)
	Altyre/Newtyle Forests	5b - ii	19	Western part connected to Findhorn Valley (6)
Narrow Wooded Valley	Findhorn Valley	6	25	
Broad Farmed Valley	Spey valley	7	20	Links with 4b, 12a-I and high edge hills in 9 and 11
Upland Farmland	Upland Farmland	8	9	
·	Upland Farmland LFH - + low	8a -i	9	

	plateaux			
	Upland Farmland LFH – Landmark Hills	8a-ii	16	Small units. Cullen Bin visual connection to (2b).
Rolling Forested Hills	Rolling Forested Hills	9	12	
Upland Moorland and Forestry	Upland Moorland and Forestry	10	8	
Open Rolling Uplands	Open Rolling Uplands	11	13	SW adjacent to SLA in Highland. Consented Cairn Duhie wind farm will instigate major landscape change
Open Uplands with Steep Slopes	Ben Rinnes	12a - i	22	Connection with 13b, 7 (where it strongly contributes to scenic composition) and 12a-ii. Under-construction Dorenell wind farm will have a strong influence on views in eastern parts of this area.
	Uplands SE of Glen Rinnes	12a - ii	19	Connection with 13b and 12a-i
Open Uplands with Settled Glens	Open Uplands with Settled Glens	12b	12	Under-construction Dorenell wind farm will instigate major landscape change.
Narrow Farmed Valley	Deveron Valley	13a	18	SLA covering Deveron Valley in Aberdeenshire. SW area of upper Deveron less characteristic of Deveron as a whole, influenced by wind farm development located in adjacent uplands and does not adjoin similar SLA designation in Aberdeenshire.
	Glen Rinnes/Glen Livet	13b	20	Borders Cairngorms National Park and strong connectivity to Ben Rinnes 12a-I and 12a-ii
	Isla and Riddich Valleys	13c	14	



REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON 18 SEPTEMBER 2018

SUBJECT: KINLOSS GOLF COURSE MASTERPLAN SUPPLEMENTARY GUIDANCE

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING & INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 This report asks the Committee to agree responses to comments received during the public consultation on the Kinloss Golf Course Masterplan Supplementary Guidance, and to grant delegated powers to the Head of Development Services to work with the developer and partners to prepare a Delivery Plan/Programme for the Masterplan area.
- 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 Planning Authority.

2. <u>RECOMMENDATION</u>

- 2.1 It is recommended that Committee:
 - (i) agrees the responses to the comments received to the public consultation on the draft Kinloss Golf Course Masterplan Supplementary Guidance set out in Appendix 2;
 - (ii) delegates authority to the Head of Development Services to make the identified minor changes to the final draft Masterplan;
 - (iii) delegates authority to the Head of Development Services in consultation with the Chair and Depute Chair to work with the developer and partners to prepare a Delivery Plan/Programme for the Masterplan area; and
 - (iv) agrees the finalised Kinloss Golf Course Masterplan Supplementary Guidance be approved and used as a material consideration following agreement of the Delivery Plan/Programme, that will be given significant weight in the determination of planning applications in this location.
- 3. BACKGROUND

- 3.1 At the meeting of this Committee on 24 April 2018 (para 10 of the minute refers), the Committee agreed the draft Kinloss Golf Course Masterplan be issued for public consultation and that responses be reported to a future meeting of this Committee along with the final Masterplan for approval as Supplementary Guidance.
- 3.2 The finalised draft Masterplan, set out in **Appendix 1** covers the whole of the Kinloss Golf Course, situated 2.5km east of Kinloss and is accessed off the B9089 Burghead to Kinloss Road. The total site area is 27.74 hectares of which 25% is currently wooded.
- 3.3 The Masterplan provides a framework for the development of 20 house sites, offering the potential for a range of small, modest and larger dwellings. Affordable housing is not proposed to be delivered on site and instead a commuted payment will be sought to contribute to provision elsewhere. Four plots have been identified for affordable self-build opportunities however they do not meet the Council's requirements to be considered as delivering affordable housing. There is a tourism element comprising 16 individual holiday cabins and 6 glamping pods alongside amenities including a games room, toilets and showers, social area and outdoor space incorporating a play park and BBQ area.
- 3.4 The draft Masterplan was made available for consultation between 14 May 2018 to 6 July 2018 and a total of 17 responses were received which are summarised in **Appendix 2**. A drop-in exhibition manned by Council planning officers and representatives from MAKAR was held on 31 May 2018 and attended by approximately 35 people. Press articles and social media were used to raise awareness of the consultation.

4. CONSULTATION RESPONSES

4.1 The key issues raised are as follows;

Access and Roads Infrastructure

- Poor condition of existing roads infrastructure and need to upgrade to serve existing properties and proposed development.
- Limited visibility from/to the B9089.
- Long term maintenance of roads infrastructure.
- 4.2 A number of road improvements are required to support the development of the golf course including upgrading the road surface in locations, road widening in places and creating improved visibility onto the public road.

Woodlands

- Provision of woodland management plan to ensure appropriate ongoing management of woodland and to ensure minimal tree removal.
- Delivery of compensatory planting that meets the requirements of Forestry Commission Scotland.

4.3 There are ongoing discussions between MAKAR and the Forestry Commission Scotland relating to the most appropriate mechanism for delivering required compensatory planting. The Masterplan will not be approved until such time as the delivery of the woodland planting for the whole of the site has been established. A woodland management plan must be produced to support the Masterplan and be in place prior to determination of any further planning applications within the Masterplan area.

Phasing

- Preparation of phasing plan to minimise disturbance on residents and ensure delivery of the aspirations of the Masterplan.
- 4.4 An indicative phasing plan has been provided although it is acknowledged that it is difficult to predict market demand for the two elements of the development.
- 4.5 Detailed responses to all comments received are set out in **Appendix 2**.

5. <u>NEXT STEPS</u>

- 5.1 To address these issues some minor changes to the Masterplan are required as detailed in **Appendix 2**. It is recommended that delegated authority is granted to the Head of Development Services to make these final minor changes to the Masterplan.
- 5.2 Delegated authority is also requested to work with the developer and partners, including Forestry Commission Scotland to prepare and agree a Delivery Plan for the Masterplan, which will include a woodland management plan and details of how the development will be phased to ensure infrastructure, landscaping and affordable housing contributions are secured. The Masterplan will be adopted as Supplementary Guidance following agreement of the Delivery Plan/Programme.
- 5.3 Kinloss Golf Course will be identified as a new Rural Grouping (Miltonhill) in the Local Development Plan (LDP) 2020. The accompanying designation text will reflect the Masterplan requirements and state that no piecemeal development proposals will be accepted until such time as the Masterplan is adopted as Supplementary Guidance. It is also proposed to serve a blanket Tree Preservation Order (TPO) across the whole of the Masterplan area. This will protect existing woodlands on site, with an understanding that there will be woodland removal required to accommodate development as identified in the Masterplan and the required supporting Woodland Management Plan. This approach also offers protection to the areas of new planting required to meet the terms of the Masterplan.

6. <u>SUMMARY OF IMPLICATIONS</u>

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

Masterplans will assist in delivering the Council and Community Planning Partnership priorities, such as providing affordable housing, developing a sustainable economy, healthier citizens and safer communities.

(b) Policy and Legal

The requirement for the preparation of a Masterplan for Kinloss Golf Course is set out within the Cumulative Build Up of Houses In the Countryside Guidance Note prepared in 2017. The Masterplan will become Supplementary Guidance and be used as a material consideration that will be given significant weight in the determination of planning applications at the golf course.

(c) Financial Implications

There are no financial implications arising directly from this report.

(d) Risk Implications None.

(e) Staffing Implications

Work on the Kinloss Golf Course Masterplan Supplementary Guidance has been carried out within existing staff workloads of Planning and Development, Development Management, Housing Strategy, Flooding and Transportation along with other Council services.

(f) Property

None.

(g) Equalities/Socio Economic Impact

The Equalities Officer has advised that the consultation has not highlighted any impacts on groups protected by the Equality Act 2010, other than that in the implementation, consideration should be given to the development of community transport links, particularly for vulnerable groups (elderly, people with a disability, and families with young children).

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager (Property & Contracts), the Equal Opportunities Officer, the Transportation Manager, Senior Transport Development Engineer, the Development Management Manager, the Lands and Parks Officer, Waste Management Officer, Housing Strategy and Development Manager and Lissa Rowan (Committee Services Officer) have been consulted and their comments incorporated into the report.

7. <u>CONCLUSION</u>

- 7.1 This report summarises and responds to issues raised during the consultation on the draft Kinloss Golf Course Masterplan Supplementary Guidance. Further work with the developer and partners is required to prepare a Delivery Plan/Programme to ensure infrastructure, landscaping and affordable housing contributions are secured.
- 7.2 Once approved the Masterplan Supplementary Guidance will become a material consideration in determining planning applications at Kinloss Golf Course.

Author of Report: Emma Gordon, Planning Officer Background Papers: Ref:

Responses to Kinloss Golf Club Draft Master Plan

Body or Person submitting a representation

000184 Moray Council Environmental Health Regional Archaeologist Aberdeenshire Council 000504 000569 SEPA Moray Council Transportation 001051 001136 Forestry Commission Scotland 001229 Anonymous 001247 Scottish Natural Heritage 001524 Scottish Water 001585 Dr Keith Fraser **Dr Roger Gibbins** 001807 001947 Shona Marshall 001948 Ken and Mary McLennan Daz and Angie Turner 001949 001950 Tom and Janette Hendry 001951 Stewart and Louise McNeill Mark and Rosemary Lawson 001952 001953 Findhorn and Kinloss Community Council

Planning Authority's summary of the representation(s)

Moray Council Environmental Health

000184

A significant proportion of the site is currently within the 66 to 72 dBA band associated with the MOD's Noise contours at the formerly titled RAF Kinloss. Noise Impact Assessments (NIA) are required for aircraft noise within the 66 to 72 dBA contours at this runway in relation to residential housing development. Proposals for land use that is not a permanent residential amenity, i.e. the area designated for holiday accommodation identified within the Masterplan, will not require the provision of an NIA.

Regional Archaeologist Aberdeenshire Council

000504

Proposed plot 9 will have a direct impact upon an identified cropmark site and therefore is a requirement for appropriate mitigation measures to be undertaken ahead of construction works.

SEPA

000569

Supportive of as much of the development as possible connecting to a shared system. Discussions should be had with Scottish Water regarding adoption of such a system. With more isolated individual dwellings having their own private drainage system or isolated groups having a single shared private system and would welcome further agreement on the foul drainage proposals in line with this and this position being reflected in the Masterplan.

Moray Council Transportation

001051

Transport Statement – text to be included on page 8 making reference to the requirement for a Transportation Statement to identify the travel demands of the proposed development, any off site impact on the adjacent public roads and any required mitigation measures. Transport Statement to include an appraisal of traffic flows and accident data on the adjacent Public Roads leading to Kinloss and Roseisle (B9089) and the single track road to the west of the development leading to the A96 (C5E East Grange to Spindle Muir Road).

Access – the access onto the public road will require upgrading to ensure that a minimum visibility splay of 4.5 metres by 215 metres in both directions is provided, clear of any obstruction above 0.26 metres in height (measured from the level of the adjacent public carriageway). This will require the setting back of the existing fence line to a position behind the visibility splay and the clearance of trees and vegetation (all within the control of the Golf Club). Widening of the access is also advised, as approximately 11.8 metres back from the edge of the public carriageway into the car park there is a section where the access width is just less than the advisory 5.5 metres. It is noted that the internal road will be upgraded to enable access for refuse collection vehicles to service a communal refuse collection point. The road may also be required to enable the picking up of any school pupils associated with the proposed housing by a school bus. Considering designating the track from the development to the rear of Miltonhill (and the track leading to the club house) as a Core Path.

Forestry Commission Scotland

001136

The current proposal shows individual red line boundaries for the footprint of each development site along with an associated blue line boundary showing a wider area intended for sale with the built property / self-build plot. In a number of cases this blue line boundary includes an area of woodland. The document states that these blue lines (property boundaries) will be made clear on the ground using post and rail fencing and / or hedging. If this is the case we would consider that the entire area within the blue line is within the property curtilage, therefore it would be classed as a garden and lost as woodland as it would no longer be subject to the Forestry Act. FCS would like to see a clear balance sheet showing all the trees and woodland that will be lost through development and land use change and all the woodland gained through compensatory and additional planting, so that the net gain stated is demonstrated.

The area has a felling licence in place which has a condition for restocking an alternative area which also falls within the wider development red line boundary. This alternative area for restocking must be shown and considered as woodland area in the woodland loss calculations. If the area shown on the felling licence is not to be restocked in the currently proposed location then it must be covered by the compensatory planting proposal. Whilst the Masterplan states that the timing of development is uncertain it would be requested that the timing of woodland removal and the completion of compensatory and additional planting works are specified in the planning permission and that they are done as early on in the development as is reasonably possible.

Scottish Natural Heritage

001247

No comments. Welcome woodland retention/creation and the biodiversity ethos of the Masterplan

Scottish Water

001524

There is currently capacity at the Glenlatterach WTW to serve the proposed site. There are no public sewers in close proximity to the proposed site. SEPA should be consulted regarding the registration and licensing for septic tanks/treatment system for the proposed development. Prior to any development taking place further assessments of the development's impact on the local network need to be carried out. The Developer should submit a Pre-Development Enquiry (PDE) form (found at www.Scottishwater.Co.Uk) as early as possible. Water Impact Assessment (WIA) on the local network is required. A WIA may identify water infrastructure upgrades required to accommodate the development. Should this be the case, any upgrades would need to be funded and carried out by the developer.

Findhorn and Kinloss Community Council

001953

The B9089 is a very dangerous road and there has been a number of fatalities over the years. Coming out of the golf course from the track onto this road, if you look to the left less than 400 metres is a series of bends in the road, looking to the right about the same distance is the blind summit which has the vehicles coming from Roseisle. Vehicles do speed from both direction including agricultural ones. There will also be an increase of traffic going into the golf course with the traffic coming from the Kinloss direction possibly having a number of vehicles going into the golf course and thereby causing traffic to backup. There are no made up roads on the site. Although there are no current plans to have a road opening from the top right of the golf course, to the loft and the A96 there could be access from the B9089 or from A96 and this is a small, narrow country road with 2 small bridges on bends, animals and blind driveways.

For a development of this size, shouldn't the whole development be on mains sewerage. Rubbish collection to the separate houses, each householder will be responsible for bringing their recycling and refuse to the site by the existing club house. Elderly or disabled residents may well find this an onerous task. No mention was made about whether the lodges were going to be managed by 1 company or if they would be individually owned. Whether they would have a 12 month tenancy or less like the other holiday parks in the area. Will they allow subletting if individual lodges are sold? The Golf Course Management should not be allowed to submit a new plan after failing to follow conditions of their previous plan. There was no mention in the plans about affordable housing. Where this number of houses are being built there should be provision for affordable housing.

Dr Keith Fraser	001585
Shona Marshall	001947
Ken and Mary McLennan	001948
Daz and Angie Turner	001949
Mark and Rosemary Lawson	001952
Tom and Janette Hendry	001950
Dr Roger Gibbins	001807

Support for Masterplan

Happy to support the further development and diversification of the Golf Course if the development and final position, therefore welcome the Masterplan

approach.

Viability

The draft Masterplan is not accompanied by a business plan and confirmation that due diligence has been undertaken to ensure there is a business plan would provide some assurance.

Impact on Golf Course

The plans will change the nature of the golf course considerably, to a smaller 9 hole course. This looks less likely to be an attraction for club membership or those seeking to maintain a handicap. On the other hand there may be a market for 'pay and play' in a golf club style environment. This may be a more seasonal proposition however.

Tourism Facilities

When people go on holiday they expect more than just accommodation, they want a range of high quality activities for families on site. There are many alternative holiday parks in the area adjacent to beaches. Here would require a car journey, albeit short. It could be a good base for exploration of the wider area. This would require active marketing and may benefit from collaboration with other activity providers. A restaurant open in the evenings is likely to be expected by holiday makers, and would be attractive to residents here and further afield. The B9089 Burghead Road is a busy road with fast moving traffic. Those cabins adjacent to the road will need good screening to control noise and provide a sense of security. The floor plans on page 18 are at odds with the pictures on page 19. The plans appear to show plain but functional lodges, the pictures rustic and interesting cabins. What WC and shower/bath facilities are provided in the cabins? People will not expect to use a community toilet/wash facility in a modern development and from the glamping pods folk will simply not walk the distance to the communal block.

Social Interaction and Connectivity

Emphasis on sustainability, but feel that this takes a too limited approach. Sustainability and quality of life does not just derive from the personal space, building design and natural environment but equally from the social space and opportunities for interaction and social cohesion. Suggest that layout of particularly the residential area is reconsidered to facilitate maximum opportunities for social and community interaction. Currently the residential area of the site is almost entirely divided between private housing plots. Each of these could be made smaller with a network of more interesting pathways and open spaces for 'public' use. Smaller plots will not result in lower retail price but would significantly increase overall community value. Pathways are mentioned but these seem of limited scope and don't really lead anywhere. They could be expanded and link up the network of open spaces to create really interesting walkways throughout the site. The private track suitable for pedestrians to the southern boundary has been closed off with a locked gate. Perhaps discussion with Miltonhill Farm could come to an alternative arrangement. Previously residents of the Miltonhill area would also use this track to enjoy walking on the golf course, an option now closed off. Is it a 'right of way'? Could it be requested it be designated as a pedestrian access point to and from the site.

Once fully developed there will be 26 families, and in our experience the number of permanent residents is well boosted by visiting family and friends. Expect specific open space to be included in a development of this size as a recreation area for families and play area for children (and adults!). This need not be a formal play area, but mixed open space in keeping with the rest of the environment for the activity of play and recreation, particularly for children and young people.

Phasing

There is no mention in the plan for phasing of the development. Smaller 'zones' should be identified in order to minimize disruption to services and residents, and restrict construction activity to manageable areas of the site rather than the whole development. Any development of the site should be phased, rather than uncontrolled and possibly giving rise to a situation whereby plots regarded as being slightly less desirable are left undeveloped thereby jeopardising realisation of the full plan.

Infrastructure

Improvements to infrastructure including road, access, broadband and water need to be more fully addressed in the plan and implemented before any development. The current broadband provision is pitiful, with BT only being able to provide 1MB at off-peak times. The site will be much more attractive to purchasers if something can be done to improve broadband speeds.

Biodiversity / Ecological Assessment

What assessment has been done on impact on wildlife other than badgers and bats? As mentioned, sand martins are at risk. There may well be habitats for other endangered species at risk. Would suggest need for wider impact assessment.

Water Pressure

The water pressure on the site is very low. Further development will only make it worse. This also needs to be resolved before further development.

Woodland Management

Reducing the size of the course and returning it to farming land has resulted in a loss of tree cover. As the woodland on the golf course was partially funded with public money pleased to see that the masterplan incorporates a gain in wooded area. However, the existing woodland is in need of management as many of the trees have become overcrowded as they mature. There needs to be a clear management plan for the woodland, defining responsibilities and ensuring that tree removal is kept to a minimum. Conservation of the natural environment will ensure that this area continues to be rich in wildlife and act as a wildlife corridor. Construction companies tend to remove many more trees than necessary, just to make access to sites easier. Despite there being compensatory tree planting shown on the plan, it would be hoped that the Council would insist on a minimal amount of tree removal from plots.

Roads Infrastructure and Access

The full length of the track should be upgraded to a standard suitable for domestic vehicles throughout the year. The access track also requires passing and turning places - to allow routine and emergency vehicle access throughout its length in the event of opposition traffic. All work necessary to bring the access track to standard should be done in advance of any building work and it should be maintained during construction and once development is complete. The current access slipway and visibility splay from/to the B9089 serving the Golf Course is insufficient in both directions and continually creates dangerous situations for drivers entering/exiting the B9089. Remedial work required on the slipway and visibility splay should also be carried out before any construction in order to mitigate the current situation. The improvements suggested in the master plan don't go far enough to initially improve, and then maintain, a decent road surface for all of the current residents during what will be a development taking a considerable length of time. The road system must surely be of a standard that will allow not only the current residents to access their properties without sustaining damage to their cars, but also allow emergency and delivery service vehicles, as well as construction traffic to be able to access plots. A decent road will make the sites much more attractive to potential buyers. The steep double bends above the clubhouse need to be surfaced in such a way as to prevent ice build-up in winter and allow heavy vehicles to climb the hill without constantly digging up potholes etc.

Design Code

Fully support design code. This will be essential to ensuring the unique feel for the development. Roof heights will not exceed 6.75m is covered in overview bullet points but again specifically referenced for plots 5,6,7&8 and 1,2,3&4, and again 18,19&20. Why are these plots specifically referenced, and what is the implication for those plots not referenced (9 - 17)? Page 171

Stewart and Louise McNeill

001951

These proposals will impact upon our property, not happy with noise and traffic levels associated with the development. Chose this particular location for a house as it was not surrounded by other houses. Advised that more trees will be planted but how long will it be before they mature to create a buffer to reduce noise and disturbance to nearby properties.

Officer's Comments

Moray Council Environmental Health

The requirement for a Noise Impact Assessment to accompany planning applications for residential elements has been identified within the Masterplan.

Recommendation

No change.

Regional Archaeologist

000504

000184

The requirement for appropriate mitigation measures due to archaeological features at plot 9 has been identified within the Masterplan.

Recommendation

No change.

SEPA

000569

The text within the Masterplan has been amended to reflect the approach advocated by SEPA in respect of drainage arrangements.

Recommendation

No change.

Moray Council Transportation

001051

A draft transport statement has been prepared and included within the Masterplan text. The Masterplan also identifies required upgrading of the access onto the public road including visibility splays and road widening. There is a sufficient area around the golf club house to accommodate the pick-up/drop off of school pupils.

The Access Manager has been consulted in respect of the path to Miltonhill and has advised there is no recorded Right of Way on this site. Furthermore the track does not appear to meet all the criteria for being considered a Claimed Right of Way. The Core Paths Plan is being reviewed however it is beyond the consultation phase for new routes to be considered and there is doubt whether this track would meet the requirements set out in the Core Paths Plan to qualify as the Core Path.

Recommendation

No change.

Forestry Commission Scotland

001136

Within the LDP 2015 there are compensatory planting policies to implement the Scottish Government Control of Woodland Policy. Any loss of woodland must be mitigated through additional woodland planting. Discussions with the Forestry Commission are ongoing and relate to how the proposed compensatory planting will be delivered and retained. This will be addressed within a Delivery Plan that is required to accompany the Masterplan. This delivery plan will include requirements for a woodland management plan which will clearly indicate trees to be retained, trees to be felled and areas of new planting with the net gain as requested by the Forestry Commission. The timing of woodland removal and the completion of compensatory and additional planting will be set out within the Delivery Plan required to support the Masterplan.

Recommendation

A delivery plan/programme will be required to support the Masterplan. This plan/programme will include a Woodland Management Plan detailing the provision of woodland planting to the satisfaction of the Forestry Commission, timings and maintenance of proposed and existing planting. To protect existing trees a blanket Tree Preservation Order (TPO) is being proposed on the understanding that there will be tree removal to accommodate new development. This approach will also offer protection to the new woodland planting.

Scottish Natural Heritage

Comments noted.

Recommendation

No change.

Scottish Water

001524

001247

Comments on capacity are noted. SEPA's approach in respect of foul drainage arrangements has been reflected within the Masterplan text. Scottish Water comments are noted. MAKAR has submitted the required form and is in discussions with Scottish Water regarding the implementation of the Masterplan.

Recommendation

No change.

Findhorn and Kinloss Community Council

001953

The Council's Transportation section has been consulted and raised no objections to the principle of development in this location. A number of road infrastructure improvements are required to facilitate the development including upgrading visibility and widening of the access road into the golf course. Access into the development from the B9089 will be via a private road/track. The developer will be required to ensure that the road/track is suitable for access by emergency services as a minimum. It is understood the development will be proposing works to the road/track to ensure that it meets and is maintained to an acceptable standard for use by residents, emergency services and other users. A connection onto the C5E East Grange to Spindle Muir Road will not be supported.

The tourism element of the development will have a shared system foul drainage system. Given the dispersed nature of the plots individual private systems are proposed elsewhere. Discussions are ongoing with Scottish Water. The Council's Transportation and Waste services have been consulted and raised no objections to the proposed communal arrangements.

The operational details of the tourism element of the development are not appropriation within the Masterplan. It will be stipulated within the Masterplan that the

cabins, pods etc. will be restricted to holiday use only and cannot be used as permanent residential accommodation.

The site has a planning history and previous planning approval for cabins and housing. There are no outstanding enforcement issues in relation to the site. The Masterplan has been put in place to seek to support the diversification of the golf course. A commuted payment is being sought for delivery of affordable housing off site. 4 self-build plot opportunities have been identified on site however these do not meet the Council's requirements to be considered as affordable housing.

Recommendation

No change.

Dr Keith Fraser	001585
Shona Marshall	001947
Ken and Mary McLennan	001948
Daz and Angie Turner	001949
Mark and Rosemary Lawson	001952
Tom and Janette Hendry	001950
Dr Roger Gibbins	001807
Anonymous	001229

Supportive comments in respect of the Masterplan approach are noted

Viability

The golf course owner has not been asked to provide a business plan. The planning authority is sympathetic of the need to diversify the business however the key consideration was addressing the landscape and visual impact associated with the build-up of housing in and around this location and the need to address this through the identification of a new rural grouping and supporting masterplan.

Impact on Golf Course

The intention of the tourist element of the Masterplan is to diversify the business and create an alternative income stream it is assumed that the golf course owner will have taken into account the impact of a reduced golf offer.

Tourism Proposals

The tourism element of the Masterplan is based upon the business plan of the landowner and aspirations to diversify the business to create a tourist attraction. It is not the remit of the planning authority to intervene and stipulate what types of facilities need to be provided on site. As part of the proposal there is reference to the provision of a games room and social area, indoor and outdoor seating areas, a playpark and bbq area. This is to be supplemented by the clubhouse and café bar and restaurant to create a focal point and hub for the development. The floorplans and drawings of the cabins are for illustrative purposes and intended to indicate what form these buildings could take and the actual detail will be provided and considered at detailed planning application stage. The issue with the provision of facilities is for the landowner to consider what is cost effective and attractive on this site. There is a significant shelterbelt proposed to buffer the development from the B00874 affic and noise and the wind.

Social Interaction and Connectivity

The development is seeking to integrate housing sensitively within a wooded site and there the plots have intentionally not been grouped together, but instead located in the most discreet areas of the site. There are significant areas of woodland planting around plots to create containment. The varied size of plots across the Masterplan is supported. Pedestrian routes have been identified creating a permeable layout. These paths offer the opportunity for social interaction there is also a play area and seating areas identified within the proposed tourism element of the development. The Access Manager has been consulted in respect of the path to Miltonhill and has advised there is no recorded Right of Way on this site. Furthermore the track does not appear to meet all the criteria for being considered a Claimed Right of Way. The Core Paths Plan is being reviewed however it is beyond the consultation phase for new routes to be considered and there is doubt whether this track would meet the requirements set out in the Core Paths Plan to qualify as the Core Path. Discussions are ongoing on the delivery of woodland planting that will result in the creation of a significant area of community owned woodland.

Phasing

An indicative phasing plan has been set out within the Masterplan, it is accepted however that it is difficult to estimate market demand as this is a different offer from a conventional plotted development. Given the dispersed nature of the site, it is not considered that the construction of individual houses will have a detrimental impact on the amenity of residents.

Infrastructure

Specifics of improvements to infrastructure are more appropriately dealt with at the detailed planning application stage. As part of the development of the Masterplan area fibre broadband will be brought on site and existing residents will be able to access it. There will be policy requirements within the LDP 2020 requiring fibre broadband in new development unless technically unfeasible.

Biodiversity / Ecological Assessment

The final Masterplan is a concise version of all the information that has been gathered to support the masterplanning process. Ecological studies were commissioned and undertaken on site including badger and bat surveys. No significant impact on species or habitats was identified and therefore this is not highlighted as an issue within the Masterplan itself. Scottish Natural Heritage were also consulted and has raised no issues in terms of environmental impact

Water Pressure

Scottish Water has provided information stating the water pressure on site is adequate to support the proposed level of additional housing development.

Woodland Management

A woodland management plan is required to support the Masterplan and this should set out plans for the delivery of new planting and management of existing and new woodland. Discussions are still ongoing about the mechanisms for delivering the required woodland planting, its retention and maintenance and meeting the terms of the previous Forestry Commission grant. The management plan should also set out requirements for minimal tree removal and safeguarding of existing trees on site. The Masterplan will not be adopted until such time as these issues have been addressed. Access into the development from the B9089 will be via a private road/track. The developer will be required to ensure that the road/track is suitable for access by emergency services as a minimum. It is understood that the developer will be proposing works to the road/track to ensure that it meets and is maintained to an acceptable standard for use by residents, emergency services and other users. It should be noted that due to the existing topography, sections of the access may be too steep to be used by wheelchair users. Visibility improvements to the access onto the public road will be considered as part of any planning application and are likely to include provision of a 4.5m x 215 metre visibility splay, clear of any obstruction above 0.6 metres in height, widening of the access to a minimum of 5.5 metres for the first 15 metres from the edge of the carriageway and a review of the access taper and radius. The land required to undertake the improvements is within the control of the developer.

Design Code

Support for the design code is noted. The height restriction of 6.75m applies to all new houses the masterplan will be amended to make this clear.

Recommendation

A delivery plan/programme will be required to support the Masterplan. This plan/programme will include a Woodland Management Plan detailing the provision of woodland planting to the satisfaction of the Forestry Commission, timings and maintenance of proposed and existing planting. To protect existing trees a blanket Tree Preservation Order (TPO) is being proposed on the understanding that there will be tree removal to accommodate new development. This approach will also offer protection to the new woodland planting.

Stewart and Louise McNeill

001951

The Council's Environmental Health section has raised no issues in relation to impact of the Masterplan proposals on the amenity of nearby residential properties. It is not considered that the small scale level development proposed will significantly increase traffic in this location.

Recommendation

No change.

Kinloss Golf Course



Master Plan

Kinloss Golf Course Master Plan

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1. INTRODUCTION

The area surrounding Kinloss Golf Course has been identified as a development hotspot due to the cumulative build up of housing in the countryside. Directing development to rural groupings to create clusters as opposed to multiple individual sites is considered to promote a more sustainable pattern of growth. On this basis the golf course and wider area is identified as a potential new rural grouping with development opportunities in the Moray Local Development Plan 2020 Main Issues Report.

The requirement for the preparation of a Masterplan for Kinloss Golf Course was set out within the a framework for the long term maintenance of the existing woodland and assists in the delivery of the Guidance Note on Landscape and Visual Impacts of Cumulative Build Up of Housing in the Countryside agreed by Committee in August 2017.

This masterplan sets out requirements and proposals for the development of Kinloss Country Golf Course. The masterplan involved close collaboration between the landowner, MAKAR and Moray Council and the desire to create a development of a high quality residential/tourism development integrated with a 9 hole golf course and range of associated facilities.

The purpose the masterplan is to promote a sensitively sited, high quality development that provides economic diversification of the golf course.


Site boundary marked in red.

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2. VISION

The vision is to create a unique development in which three elements, residential homes, holiday accommodation and golf course are co-located in a wooded site rich in biodiversity.

The development will exemplify the best in contemporary timber design and positive aspects of offsite manufacturing, promoting a strong visual and cultural link with the natural and renewable resource that the buildings emanate from.

3. SITE ANALYSIS

The Kinloss Country Golf Course is situated 2.5km east of Kinloss. The golf course is accessible from the B9089 Burghead to Kinloss Road. There is a private track, suitable for pedestrians, leading from Miltonhill to the southern boundary of the site. The land rises steeply from the road to more or less level ground before dropping steeply away again to the south, to Miltonhill.

No significant constraints to development have been identified. A significant proportion of the site is located within the 66-72dBA band associated with the Ministry of Defences noise contours at the formerly titled RAF Kinloss. Proposals for residential development in this location will need to be supported by a Noise Impact Assessment (NIA).

There are connections to mains electricity, water supply and telecoms networks. Waste water (foul waste) for each house will be served by a septic tank or private waste water treatment system depending on ground conditions, while waste water from the tourism elements will go to a central waste water treatment unit. (See page 10)

The masterplan area is 27.74 ha of which 7.01 ha (25%), currently comprises young woodland plantation, planted under the Forestry Commission's Woodland Grant Scheme. These woodlands are comprised of native species. Scots pine features strongly together with oak, ash, birch, rowan, field maple and cherry and make an important contribution to the local landscape. These woodlands are approaching a stage where they require active management. Delay in active management now will threaten opportunities for enhancing their future quality and inherent benefits with the possibility of them becoming moribund. (See page 12)







Photographs of the Existing Golf Course









Golf course straddles access track: Fairway and green for holes 1 (+10) and 2 (+11) NE of track.

Woodland in need of active management.

Site with consent for holiday cabins adjacent to cluster of dwellings, 'Fairway Heights'.

Access track comes between Tees and Fairways for 8th (+ 14th), and for 6th (+ 15th) holes.

Fairway and green with houses on either side.

4. DEVELOPMENT PROPOSALS

The existing rich mix of native trees within the Masterplan area, clustered in blocks together, with the views and elevation relative to surrounding farmland, create a variety of spaces with distinct character.

The Masterplan seeks to draw on the existing quality of these various spaces on the higher and more level grounds, and with additional planting, create plots for dwellings and holiday cabins which are each uniquely intimate to their natural surroundings. The masterplan excludes the house plots that have been developed recently. It does, however, seek to complement and enhance the context for these dwellings.

The proposed relationship between dwellings, holiday cabins, roads and pedestrian routes and woodlands and the golf course itself has emerged from a vision of creating a high quality environment which brings benefits to people and biodiversity. The mix and location of holiday accommodation and housing plots has been given careful thought to create two distinct character areas of residential houses and holiday accommodation.

SERVICE HUB:

Bar, Cafe and Recycling Area

Layout

The area to the north east of the main access route and club house has been designated entirely for holiday makers, leaving the nine hole golf-course to the area west and north of the tracks. The residential elements are located to the south of the golf course. This gives golfers a sense of containment and security with all holes within easy reach and with no tracks to cross.

The site infrastructure will have a low environmental impact through the use of unsealed rural tracks through much of the development. Houses will be sited close to existing electricity and water supply networks to minimise groundworks.

Concept Diagram : Proposed Zoning

TOURISM:

Land NE of track to become designated holiday area; distinct from access to dwellings and golf course.

RESIDENTIAL:

Small cluster with views SE to open farmland.

Proposed development to round off existing 'Fairway Heights' cluster.

House sites which benefit from both long views North, and established woodland.

Inward looking sites benefiting from established woodland.

GOLF COURSE

4

Reorganization of Golf Course to avoid straddling of access tracks. New course takes in the best views.

Residential Houses

Twenty house sites have been identified within the masterplan boundary offering the opportunity for a range of small, modest and larger dwellings.

There is an aspiration to offer affordable self-build opportunities and 4 plots are identified with this in mind. These will be marketed to builders who will have to adhere to the design principles set out within the masterplan.

Plan of Residential Area



Page 185

Indicative house plot sizes are as follows:

Affordable Self Build Plots – 4 plots less than 0.1 ha Medium Plots – between 0.15 ha and 0.2 ha Larger Plots – between 0.2ha and 0.25 ha Very Large Plots – between 0.35 ha and 0.55ha

Contours level out, and views to the south-east bring sense of openness.

Proposed tree planting will enhance the distinctive character and privacy of the affordable self-build plots.

Established planting to be managed to enhance and ensure quality and privacy for new plots at 'Fairway Heights'.

Sites at the top of the 4th Fairway with spectacular views NW. Established wood to the north and NE is a buffer to existing houses at 'Fairway Heights', and a backdrop for the houses. New planting in between and around sites to allow for privacy and enhanced biodiversity.

Unsealed rural lane - unadopted.

Houses sited back from top of slope, (to the south, over Miltonhill) and within existing woodland. Woodland to be maintained and enhanced for privacy and biodiversity, and to provide backdrop for houses; in order to avoid silhouetting from A96.

House Plots

Holiday Facilities

An area has been clearly defined for holiday cabins, away from the main thoroughfare of the golf course, offering safe recreational spaces and amenity facilities to complement the proposed tourist accommodation.

There will be 16 holiday cabins of varying sizes on the site. They will have small footprints and low ridge

heights to minimise impact and allow them to integrate into the landscape.

Central facilities will be provided including a games room, toilets and showers, social area and outdoor seating associated with a play park and BBQ area. This will be supplemented by the Golf Club reception which will remain, as will the café bar and restaurant in the existing Clubhouse building providing the opportunity for social contact and relaxation.



Plan of Holiday Area

Holiday Area defined to the north of the golf course, and distinct from the residential areas.

Design principles:

Positioning and orientation of cabins, and new woodland to provide for and enable:

> Solar access to primary living spaces; both indoor and outdoor.

A degree of privacy in indoor and outdoor spaces.

Shelter from wind; enhancement of the microclimate around the building.

Views from primary living spaces onto woodland.

New woodland to be a vibrant mix of native species including birch, rowan, cherry, oak, ash and hazel.

New woodland to be established to maximize the potential for biodiversity.

Woodland around perimeter to enhance privacy.

5. INFRASTRUCTURE

The site infrastructure has been designed to have a low environmental impact.

Draft Transport Statement

Work to prepare a Transportation Statement has begun, in dialogue with The Moray Council. The following estimate of additional traffic in and out of the site has been calculated using the Moray Council residential trip rates and trip rates from the TRICS database for the Holiday accommodation.

These rates provide total numbers of *additional* vehicles (rounded up to the nearest whole number) associated with the development during the peak periods:

	<i>Residential:</i> No. of <i>additional</i> vehicles	Holiday Accommodation No. of <i>additional</i> vehicles	Total No. of <i>additional</i> vehicles
AM arrivals:	4	4	8
AM departures:	12	12	24
PM arrivals:	4	15	19
PM departures:	1	7	8

It should be noted that not all of these vehicles would use the single track road to the west of the site; Google maps show that alternative routes are quicker, from both Forres and Elgin.

The Transportation Statement will identify the travel demands of the proposed development, any off site impact on the adjacent public roads and any required mitigation measures. It will also include an appraisal of traffic flows and accident data on the adjacent Public Roads leading to Kinloss and Roseisle (B9089) and the single track road to the west of the development leading to the A96 (C5E East Grange to Spindle Muir Road).

Roads

Access:

The access onto the public road will be upgraded; with the access widened to at least 5.5m, and visibility splays provided, of 4.5 metres by 215 metres in both directions. The effectiveness of the existing taper on the approach to the access from the east and the junction radius to the west will also be reviewed.

Internal roads:

The existing tracks will be improved. They will be engineered using an appropriate material build up with a suitable wearing course to form a camber that pushes water off the surface into well dimensioned and formed drainage channels along the track side. Appropriate drainage for the tracks will be considered in the context of a Drainage Impact Assessment. Regular maintenance of the tracks will be undertaken by the Golf Club.

The internal road will enable access for refuse collection vehicles to service the communal refuse collection point. There will also be a designated school bus pick up point, close to the main access, for school children.

The formation of new access tracks will serve house plots, 7 and 8, and the holiday cabins to the north-east of the main car park. These new tracks will be unsealed rural lanes, in keeping with the existing unsealed access tracks; formed with hardcore, with run-off being channelled to the SUDS ponds and drainage ditches. This infrastructure will be maintained by the Golf Club.

A section of the existing track, from the main car park up to the junction of the original Fairway Heights cluster, will be upgraded; it will be sealed and sufficiently wide to allow a bin lorry to proceed in a forward gear around the parking area, to the recycling area. Run-off from this sealed section of road will be channelled to the SUDS ponds and drainage ditches. This infrastructure will be maintained by the Golf Club.

Paths

The formation of footpaths between the proposed dwelling sites and cabins with either be alongside the tracks; between the tracks and plot boundaries, as is the case around plots 9, 10, 14 and 15 or, following separate routes away from vehicular traffic- as is the case between plot 6 and the play area. These paths will be formed with hardcore and quarry dust finish, and maintained by the Golf Club.

By providing this path network, residents, visitors and golfers alike can enjoy the experience of being outdoors in the elements, close to the trees; and encounter perhaps a sense of community as they cross paths to make use of the central facilities; the cafe, bar, play park and games room. A diagram showing the access infrastructure is shown on page 9.

Waste and Recycling

Given the number of house plots proposed (20 plus the existing 6) together with the total number of cabins and glamping pods (22), it is proposed to provide space for communal commercial size recycling and general waste containers.

A parking bay will be formed to enable residents to park adjacent to the containers and transfer their waste and recycling.

The proposed 'loop road' adjacent to the main entrance will be upgraded to permit a bin lorry to enter and leave in a forward gear to service the containers, whilst at no time obstructing access and egress for the site.

Utilities

The siting of houses close to existing electricity and water supply networks will minimise the amount of groundworks required to install service infrastructure.

The existing site infrastructure: water, electricity and telecom cable, follow the existing tracks. Extension of these services will follow the proposed tracks and be made available to each house and cabin.

The use of private waste water for houses and lodges will also help to minimise environmental disruption due to groundworks.

Given the nature of this development, with dispersed plots, which will be developed as and when prospective buyers come forward with interest, each of the residential homes will have their own private waste water system, while the holiday accommodation and associated facilities, and the four affordable self-build plots will be served by a shared private system. The adoption of this system will be subject to further discussions with Scottish Water.

All of the systems installed will be regulated by SEPA and will meet the Scottish Water approved standards. Page 187

Site of potential bus stop, should services along the B9089 be resumed at some point in the future.

Access to Recycling Area to comply with The Moray Council Kerbside Collection Policy, with:

3m wide sealed road suitable for vehicles with 11.5 tonne axle load, to enter and exit in forward gear (no reversing required).

Parking for new residences to be provided as per Moray Council Standards.



Centralised parking for the holiday area, with footpaths formed (with hardcore and quarry dust finish) to the cabins.

Fully accessible accommodation close to parking areas.

Footpaths separate from vehicular traffic for health, safety and well being.

Sealed road up to Fairway Heights junction.

Unsealed rural lane (track) beyond Fairway Heights junction and in Holiday Area.

Road widened for passing places at junctions and corners.

Master Plan Area Boundary
 New Plot Ownership Boundary
 Sealed Road Surface
 Unsealed Road Surface
 Pedestrian Routes

A

House Plots

Holiday Cabin Plots

Glamping Pod Plots

Games Room



SUDS ponds for biodiversity; taking run off from parking areas, and surface water from buildings, and discharging to soakaways.

Existing 90mm water mains serving 'Fairway Heights' cluster.

Existing Services follow existing track. Extension of these services will follow line of proposed new tracks and be made available to each plot.

Private waste water treatment systems in residential plots 5-20.

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Master Plan Area Boundary New Plot Ownership boundary Mains Gas Network Pipeline Existing 90mm Water Pipe Existing 25mm Water Pipe Proposed 25mm Water Pipe Overhead Electricity lines Existing Electrical Supply Cables Proposed Electrical Supply Cables Proposed Fibre Broadband



information and in the second

House Plots

Holiday Cabins

Giamping Pods

Games Room

6. LANDSCAPE

25% of site area currently comprises woodland and the masterplan provides the catalyst for adopting a proactive forest management approach that might not otherwise have been achievable, or sustainable under the wider site's existing land use. This allows the amenity, cultural and economic value of the woodland to be significantly enhanced by integrating the woodland with sustainably constructed dwellings. The edges of existing woodland will be modified, with some trees being removed, and some new planting to enhance microclimate around the dwellings and huts, and to nestle the structures into their woodland context. Through appropriate and sensitive design the proposed development will have been implemented with minimum loss of and/or damage to existing tree cover. (see page 13)

Opportunities have been identified to not only replace woodland lost to the development but also to carry out additional planting, which will result in a net increase of woodland cover across the masterplan area.

At planning application stage a Woodland Management Plan must be provided setting out how the integration of the woodlands with the detailed development proposals will be achieved. This will need to be supported by a tree survey, identifying trees that require to be removed in order to accommodate the development proposals and measures to protect trees during construction. Mechanisms for the long term retention and maintenance of existing and proposed woodland by occupiers of the houses are currently being investigated.

The house plot development boundaries will be marked with post and rail fencing together with native hedges and are shown as red lines in the Woodland Maps; and the house plot ownership boundaries will be unfenced and marked with pegs at the four corners of the plots, and are shown as blue broken lines.

7. CLIMATE CHANGE AND SUSTAINABILITY

The development will be designed and constructed as an exemplar sustainable project, both in terms of site organisation and the design, manufacture, assembly and finishing of the proposed buildings on site. The North of Scotland has a growing number of designers and construction businesses with a focus on timber building design and construction.

A sustainable design approach will be adopted for the houses and other buildings developed on the site, these principles are inherent in the design code set out within this masterplan. Key features include:

- A timber first policy buildings must be timber framed and substantially timber clad.
- The use of Scottish grown timber such as Douglas fir (e.g. for post and beams, and cladding). All timber used must be Forest Stewardship Council (FSC) certified.
- and insulation, to reduce heat loss and minimise energy demand.
- healthy buildings.
- A range of water conservation measures must be used.
- pumps, solar thermal and PV panels, and wood burning stoves).





feature trusses). Sitka spruce (e.g. for structural framing) and European larch (e.g. for

A progressive high performance, fabric first approach, with high standards of air tightness

The use of natural materials such as cellulose insulation, to help create comfortable and

Space and water heating through appropriate renewable technologies (e.g. air source heat

















Off Site Manufacturing

Off-site manufacturing of the buildings (e.g. panels and other structural elements) will be encouraged to promote the use of modern methods of construction to help improve efficiency and improve manufacturing and construction quality. This type of approach also reduces time spent on site, minimising disruption to the golf course.

Biodiversity

The development will enhance the biodiversity of the masterplan area by introducing additional tree species; and improve the age structure of the woodland with new planting, including fruit trees, thinning and management measures to increase the amount of light reaching the forest floor.

Two SUDs ponds are proposed within the tourist accommodation area. These will offer opportunities to enhance biodiversity.

Ecological Assessment

To aid the masterplan a badger and bat survey was commissioned, which concluded that there would be no significant impact on the local badger population and no adverse impact on bats.







A selection of fruiting trees including, Juniper, Gean, Bird Cherry, Blackthorn, Hawthorn, Rowan, Elder and Dog Rose - all native to Scotland

Page₁₄193







8. CHARACTER AREAS

Residential Housing

The proposed 20 house plots are of varying sizes with varying topography. The following design code has been developed to ensure high design standards and the delivery of buildings that fit sensitively into the landscape.



Examples of homes within Woodland in Northern Scotland - The Desired Sense of Place and Feel for The Development Page 5194

Design Code for Residential Plots

The design code principles are as follows:

- Houses must be positioned to work with the contours of the site, taking advantage of . potential rising from slopes.
- House position on the plot must be carefully considered to avoid exposure on any ridge line, and any view from the A96.
- Roof pitches must be between 30 degrees and 50 degrees and be dual pitch.
- Ridge heights will not exceed 6.75m.
- The principal building material must be timber.

- of timber cladding and stone or render).
- the potential for solar gains.
- to complement the natural woodland setting.
- Houses must be located to take account of access to solar energy for passive solar photovoltaic panels.
- Housing Policy.

Positioning of houses within each site must provide for:

- View(s) out of the plot.
- Solar access to primary living spaces.
- Privacy in indoor and outdoor spaces; with screening.
- Meaningful outdoor spaces which have solar access at various times of the day.
- Shelter from wind; enhancement of the microclimate around the building.
- The provision of (separate) ancillary structures; such as garages, sheds, greenhouses and polytunnels (for larger plots).
- Boundary treatment (defining red curtilage) with post and rail fencing, max. 75cm, together with native hedges.



NORTH

Elevations must be limited to two principal materials on any one building (i.e. combination

Windows must be predominantly vertically orientated, but horizontally orientated windows may be permitted where they carefully relate indoor spaces to outdoor spaces, views and

The colour palette must be neutral, windows and doors must be of various muted colours

heating, roof pitch and direction of slopes to provide opportunities for solar thermal and

A percentage of the plot must be planted as set out in the current Moray Council Rural

House plots numbered: 1-20. Plots defined by existing clearings, and by relationship to established woodland.

1.5 storey (6.75m height) limit in 'Fairway Heights' cluster; plots 5, 6, 7 & 8 and within 'self-build' plots 1, 2, 3 & 4.

Site of potential archaeological interest. Development to proceed with archaeological watching brief.

Plots defined to allow for pedestrian routes alongside and separate to vehicular routes.

Woodland outwith red site curtilage to be maintained and managed under a Woodland Management Plan.

1.5 storey (6.75m height) on plots 18, 19 & 20; above Miltonhill.

Woodland around perimeter to enhance privacy, and biodiversity.

House Plots

Materials

Timber cladding must be at least naturally semi-durable and not require chemical treatment, it can be left to gradually turn silver over time, or may be painted with a natural colour stabiliser at the time of construction, or painted a colour sympathetic to the woodland setting. Other acceptable finishes include areas of stone and render, where this serves to articulate the base course and connection to the landscape. A limited area of rendering on elevations may be acceptable as part of the house. Roofing materials must be drawn from a palette of materials including, profile metal, slate, turf (living roof) and profile fibre cement.

Boundaries

Boundaries around plots must be formed by existing woodland, new planting of trees and shrubs (Rowan, Gean and Elder) to encourage biodiversity, and species such as Blackthorn and Hawthorn which lend themselves to forming hedges. Post and rail fencing while hedging plants take time to establish is acceptable. High timber fences such as those common in suburban housing developments will not be permitted. Alterations to the golf course layout will minimise the risk of golf balls entering private plots, such that the use of high netting around plots can be avoided.

Tourist Accommodation

The cabins and 3 of the glamping pods must be nestled into individual plots, while the remaining 3 glamping pods must be clustered together in a shared space in a woodland clearing. The following design code has been developed to ensure high design standards and the delivery of buildings that fit sensitively into the landscape.











Design Code for Tourism Accommodation

The design code principles are as follows:

- Roof pitches must be between 30 degrees and 50 degrees and be dual pitch.
- Buildings must be single storey.
- The principal building material must be timber.
- The buildings must be primarily timber clad, and could include a mixture of horizontal and vertical cladding.
- The buildings must be exclusively timber clad with the same external treatment to create visual continuity.
- Buildings must have pad foundations to minimise ground disturbance.
- The colour palette must be the same as the residential housing.
- External lighting must be unobtrusive and downward pointing.

Materials

Timber cladding must be at least naturally semi-durable and not require chemical treatment, it can be left to gradually turn silver over time, or may be painted with a natural colour stabiliser at the time of construction, or painted a colour sympathetic to the woodland setting. Roofing materials must be drawn from a palette of materials including, profile metal, slate, turf (living roof) and profile fibre cement.







Indicative Cabin Designs



Examples of Timber Cabins

9. DEVELOPMENT DELIVERY

The masterplan will be used to guide development of the site and will be a material consideration when determining planning applications within the masterplan area. It is anticipated that the full build out of the masterplan could take up to 10 years with an anticipated build of 3 to 4 plots per year.

Development Phasing

Residential Houses

The proposed development is not a traditional speculative urban housing development where properties are released onto the market in dense geographically zoned phases. The nature of this development with its focus on carefully positioned house plots dispersed within the wooded landscape is such that potential purchasers will have the freedom to select the plot that they wish to buy irrespective of its location.

The residential plots/houses will be sold over an indicative ten year period. However, sales could proceed over a shorter time frame if market conditions allow.

During construction disturbance to current and future site residents will be minimised because of the dispersed location of individual plots and the off-site house manufacturing approach proposed for the site, which results in the rapid site assembly of houses to a wind and watertight stage –typically within a week.

Holiday Accommodation

The proposed development is fundamentally a rural business diversification project in the face of challenging market conditions in the traditional golf market. The three elements of the project – golf course and associated facilities, residential development and holiday area development and operation – are financially integrated. Residential house sales will generate revenue to support the development of the holiday area.

Assuming a construction start date for the residential area in 2019, it is anticipated that the start date for the holiday area will be some time in 2020.

The build out rate of the holiday area is currently planned as three phases:

Phase 1: Holiday Area Infrastructure and one third of the holiday accommodation.

Phase 2: One third of holiday accommodation and The Games Room.

Phase 3: The final third of the holiday accommodation.

This build out plan is indicative. It will be influenced by the strength of two different markets (the residential housing market and the tourism market).

Phase 1 would commence after approximately 6 house sales, with succeeding phases linked in a similar stepped way to residential house sales.

Kinloss Country Golf Club will work in partnership with developer(s)/builder(s). Partnership arrangements will be put in place to ensure that developers/builders are committed to the principles of the masterplan and specifically the Design Code.

Table of Planning Application Requirements			
Any planning application submitted will require to be supported by the following information:			
1.	Relevant house or cabin drawings.		
2.	A sustainable design statement.		
3.	Drainage Impact Assssment and map of proposed surface water drainage layout.		
4.	Flood Statement.		
5.	Confirmation (with relevant drawings, if necessary) of any groundwater abstractions within 250m of any site excavations, together with, where relevant, an assessment of the impact of the proposed development on such abstractions.		
6.	A Schedule of Mitigation measures, and a construction site layout diagram in relation to pollution prevention.		
7.	A Noise Impact Assessment (NIA) for residential elements.		
8.	Energy and heating strategy including micro renewables and short carbon cycle heating systems. Off-grid power generation and storage for electric cars will also be covered in the strategy.		
9.	Woodland Management Plan (incorporating a supporting tree survey).		
10.	Updated Ecological Assessment of Bats and Badgers.		



REPORT TO: PLANNING AND REGULATORY SERVICE COMMITTEE ON 18 SEPTEMBER 2018

SUBJECT: DEVELOPMENT SERVICES – IMPROVEMENT ACTIONS/SERVICE PLAN 2018/19

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 The Committee is asked to consider Development Services Service Plan Actions for Improvement for 2018/19
- 1.2 This report is submitted to Committee in terms of Section III (E) (20) of the Council's Scheme of Administration to develop and monitor the Council's Performance Management Framework for the Planning and Regulatory Services.

2. <u>RECOMMENDATION</u>

2.1 It is recommended that Committee consider and approve Development Services Service Plan – Actions for Improvement 2018/19.

3. BACKGROUND

- 3.1 The service planning process identifies the influences that will inform the strategic direction that Development Services will undertake in the coming year. The Service Planning Process takes into account a range of factors used by Managers to identify the changes required to services i.e.
 - Council Priorities
 - Moray Council Corporate Plan
 - Resource Changes
 - Legislative Changes
 - Council Policy Changes
 - Risk
 - Customer and Staff Engagement
 - Quality, Performance and self-evaluation

- 3.2 **APPENDIX 1** identifies an Action Plan for improvement for Development Services. Service Planning provides a means to identify the service role in the "bigger picture" whilst providing a means for staff teams and individuals to see how their team actions contribute to the Council's objectives.
- 3.3 Development Services is a diverse service with a range of statutory functions, Economic Development and Financial and Welfare Benefit Advice Functions. These are delivered by 5 service areas, Economic Development and Strategic Planning, Building Standards, Development Management, Trading Standards and Environmental Health.

4. <u>SUMMARY OF IMPLICATIONS</u>

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

The Service Plan was informed by the Moray Ten Year Plan and Corporate Plan priorities. This report provides support and infrastructure to enable the priorities to be delivered.

(b) Policy and Legal

Statutory requirements and Council policies are considered by managers when preparing service plans for the year ahead.

(c) Financial implications

No additional financial resources are required to support the Service Plan.

(d) **Risk Implications**

Up to date risk registers are maintained and considered by managers as part of the service planning process.

(e) Staffing Implications

Service Plans are vital to good management practice including identifying priorities and matching staff time to Council's priorities.

(f) Property

There are no Property Implications arising from this report.

(g) Equalities/Socio Economic Impact

Managers consider equalities issues for staff and service users when assessing current service delivery arrangements and future arrangements.

(h) Consultations

Development Services Management Team has been consulted on this Plan.

5. <u>CONCLUSION</u>

- 5.1 A plan has been prepared for the services provided by Development Services identifying the improvements targeted for the year ahead and key drivers. In preparing the plan managers have taken into account Council priorities, budget pressures, risk, self-evaluation, results of customer satisfaction surveys, staff engagement, and other relevant documents.
- 5.2 Through the Service Plan Actions for Improvement, the service explores different ways of delivering services more efficiently and effectively, whilst facing tough challenges of declining budgets and demands for the services.

Author of Report: Jim Grant, Head of Development Services Background Papers: Ref:

Item 11

Development Services Service Plan

Improvement Actions and Service Developments 2018

Promote Economic development and growth and maintain and promote Moray's landscape and bio diversity/Healthier Children

Actions	Delivered by	Lead Officer
 We will work to deliver a Growth Deal for Moray. Heads of Terms by December 2019 	Development Services	Rhona Gunn
We will review Moray Economic Strategy with Community Planning Partners • Complete by October 2018	Economic Development	Jim Grant
 We will support the applications for and delivery of European funded projects on Employability and Poverty and Social Inclusion. Complete by March 2022 	Economic Development	Reni Milburn
 We will assess implications of Planning Reform Bill and propose opportunities for an improved Planning System as a result both in consultation and developing our systems Complete by March 2019 	Dev Management and Dev Plans	Beverly Smith Gary Templeton
 We will complete the Local Development Plan 2020 putting in place policies to support economic growth and community wellbeing. <i>Complete by March 2020</i> 	Dev Plans	Gary Templeton
We will implement the new Private Water Supply legislation with full cost recovery <i>Complete by March 2020</i> 	Environmental Health	Karen Sievewright
We will lead and implement the Moray Skills Investment Plan together with partners. • 30% by March 2019	Economic Development	Jim Grant
We will develop and consolidate leadership and expertise across partners related to employability and skills to assist in delivering the LOIP and Moray skills Investment Plan with new Employability and Skills group established • March 2019	Economic Development	Jim Grant
We will carry out Tobacco/ NVP age restricted integrity checks on 75 premises Complete by March 2019	Trading Standards	Jim Grant
We will investigate Care homes terms and Conditions for legal compliance • March 2019	Trading Standards	Jim Grant
We will make 800 instances of advice to small and medium sized enterprises and support 125 business start-ups through Business Gateway • March 2019	Economic Development	Gordon Sutherland

• (Local Development Plan project plan 2020)

Sustainable Council Finance

Actions	Delivered by	Lead Officer
 We will facilitate strategic approaches to infrastructure provision (Schools, Health, Transport, Offices) through the Local Development Plan delivery group and Community Planning Partners to complete a joint appraisal March 2019 	Dev Plans	Gary Templeton
We will review our customer satisfaction methods & implement new or improved methods to capture relevant data.	Development Management	Beverly Smith
• Complete by Jan 2019	Building Standards Environmental Health	Kevan Sturgeon Karen Sievewright
	Trading Standards	Muriel Allan
	Economic Development	Gordon sutherland
We will review shared service provisions with Highland Council for SME business support and with to ensure best value. March 2019	Economic Development	Gordon Sutherland
 We will review the Business Loan Scheme and determine best value in terms of ongoing support and management of funds and alternative option for Moray March 2019 	Economic Development	Gordon Sutherland/Reni Milburn
 We will assist communities with advice to encourage participation and funding for CAT applications. March 2019 	Economic Development	Reni Milburn
 We will progress restructure proposals within Development Services to deliver increased value for money and better targeting of resources to priorities. Change Management Plans by 31 October 2018 implement March 2019 	Development Services	Jim Grant



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 18 SEPTEMBER 2018

SUBJECT: APPOINTMENT OF PUBLIC ANALYST, AGRICULTURAL ANALYST AND FOOD EXAMINER

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To inform the Committee of the resignation of the appointed Public Analyst, Agricultural Analyst and Food Examiner and to formally appoint the successors.
- 1.2 This report is submitted to Committee in terms of Section III (E16) (E11) of the Council's Scheme of Administration relating to Environmental Health and Trading Standards respectively.

2. <u>RECOMMENDATION</u>

- 2.1 It is recommended that the Committee appoints:
 - (i) Dr Duncan James Campbell B.Sc., D.Phil., M.Chem.A., C.Chem., F.R.S.C to act as Public Analyst and Agricultural Analyst for Moray Council; and
 - (ii) Kerry Louise Parrott H.N.C., M.I.F.S.T as the Food Examiner for Moray Council.

3. BACKGROUND

- 3.1 The currently appointed Public Analyst, Agricultural Analyst and Food Examiner, Stephen Appleton, retired on 19 July 2018.
- 3.2 The Council is required to appoint a Public Analyst pursuant to Section 27 of the Food Safety Act 1990 and Agricultural Analyst pursuant to Section 67 of the Agriculture Act 1970 and Regulation 29 of The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005.

- 3.3 The public analysts are employed in four laboratories located at Aberdeen, Dundee, Glasgow and Edinburgh.
- 3.4 Samples have to be submitted within 24 hours of being taken which makes the transportation to the lab critical. This, taken with the cost of transportation, makes the Aberdeen provision the most cost effective option.
- 3.5 The Food Safety Act 1990 stipulates the qualifications to be held by a Public Analyst. Dr Duncan James Campbell holds the relevant qualifications.
- 3.6 The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 stipulate the qualifications required for an Agricultural Analyst. Dr Duncan James Campbell holds the relevant qualifications.
- 3.7 The Council is required to submit any food or substance capable of being used in the preparation of food sample procured under section 29 of the Food Safety Act 1990 to be examined by a food examiner.
- 3.8 The Food Safety Act 1990 stipulates the qualifications to be held by a food examiner. Kerry Louise Parrott holds the relevant qualifications.

4. <u>SUMMARY OF IMPLICATIONS</u>

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

Appointment of these positions will assist meet the priority of ensuring caring and healthy communities.

(b) Policy and Legal

Appointment of Public Analyst and Agricultural Analyst is required under Food Safety Act 1990 and Agriculture Act 1970.

(c) Financial implications

The two officials are employed by Aberdeen Scientific Services Laboratory. There will be no increase in costs associated with these appointments.

(d) **Risk Implications**

Non appointment of these officials will result in Moray Council not meeting is statutory obligations.

(e) Staffing Implications

There are no staffing implications in relation to these appointments.

- (f) Property None.
- (g) Equalities/Socio Economic Impact None.

(h) Consultations

The Corporate Director (Economic Development Planning &Infrastructure), the Head of Development Services, the Legal Services Manager (Property and Contracts), the Equal Opportunities Officer, and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

5. <u>CONCLUSION</u>

- 5.1 The currently appointed Public Analyst, Agricultural Analyst and Food Examiner retired in July 2018
- 5.2 Moray Council is required to appoint a Public Analyst and Agricultural Analyst

Author of Report: Karen Sievewright, Environmental Health Manager

Background Papers:

Ref: