

22/01673/EIA

15th November 2022

Erection of whisky maturation warehouses and associated works on Land West Of Glenrothes Distillery Burnside Street Rothes Moray for The Edrington Group

Comments:

- A site visit has been carried out.
- Proposal to be reported to Committee under the scheme of delegation where the development site area greater is than 2 hectares and the overall footprint of buildings exceeds 10,000sqm thereby falling within the category of “major development” as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and subject to Environmental Impact Assessment under EIA Regulations.
- Advertised for neighbour notification purposes and as a departure from the Moray Local Development Plan.
- Four representations received.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:

Conditions/Reasons

1. The development to which this permission relates must be began not later than the expiration of 3 years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. Prior to any development works commencing:
 - a) Details (Plans/written proposals) shall be submitted for road improvements to Burnside Street (lay-by parking or alternative scheme to be agreed with the Roads Authority). Thereafter, unless otherwise approved in writing by the Planning Authority the road improvements shall be completed in accordance

with the approved details prior to completion or operational use of the first warehouse (whichever is soonest).

- b) Evidence that a Section 96 (S96) 'Wear and Tear' Agreement (covering the extents of Burnside Street (U179E) from the A941 to the end of the public road and including its junction with the A941 and the immediate approaches to it, and any other roads to be agreed by the Roads Authority which are likely to be affected by the impact of the development construction traffic) has been completed and signed on behalf of the Developer and the Roads Authority.

Reason: Provision of information currently lacking from the submission, to ensure acceptable infrastructure is provided on the route to/from the development to accommodate construction and operational traffic in the interests of road safety.

- 3. Notwithstanding the details submitted for electric vehicle (EV) charging (which do not show the number of charging units or their specifications) No development shall commence until the following details have been submitted for approval by the Planning Authority in consultation with the Roads Authority:
 - a) Details confirming the number (minimum of 1) type and specifications (22Kw minimum) of the proposed EV charging units(s).

Thereafter the EV charging facilities shall be provided in accordance with the approved details prior to completion of the Filling Store and Disgorging Unit (FSDU) and offices, and shall be maintained and made available for use thereafter unless otherwise agreed in writing by the Planning Authority.

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

- 4. No works shall commence on site until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The CTMP shall include the following information:
 - a) duration of works;
 - b) construction programme;
 - c) number of vehicle movements (i.e. materials, plant, staff, components);
 - d) anticipated schedule for delivery of materials and plant;
 - e) details for the volume of any materials to be removed from site and the destinations for this in order to consider any potential impact or mitigation required at other locations on the public road network;
 - f) full details of any temporary construction access/routes including any traffic management measures to be put in place between the site and A941;
 - g) specific measures to address issues identified by the Road Safety Assessment;
 - h) measures to be put in place to prevent material being deposited on the public road;
 - i) measures to be put in place to safeguard the movements of pedestrians;

- j) details for the management of deliveries to avoid peak periods during school arrival departure and break times;
- k) details of any specific instructions to drivers; and
- l) 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.

5. Prior to development commencing, a finalised landscaping plan scheme must be provided showing the phasing of the landscaping provision, and a breakdown of the specific tree species mix and numbers in each block of planting and the phasing delivery of the pedestrian path on the south side of the development. Prior to the development commencing an Access Management Plan must be submitted, developed in consultation with the Moray Access Manager and the Moray Local Outdoor Access Forum (MLOAF) detailing arrangements for access linking existing path routes west and east of the site.

The landscaping, tree protection and proposed landscaping management arrangements must be carried out in accordance with the approved details and plans listed as part of this decision notice below. Prior to development, details will be provided and agreed in writing the frequency of when the proposed path shall be mowed, strimmed and cleared of encroachment from trees, shrubs or other vegetation.

Reason: In order that the phasing for the delivery of the landscaping and of the new informal path south of the warehouses is appropriately provided.

6. Unless otherwise agreed in writing with the Council as Planning Authority, the proposed build out rate of the warehouses shall follow the below build out rate as proposed in the applicants submissions.

Phasing of the development;-

- 2023: Preparatory works and landscape planting
- 2023-2024: Phase 1 – 2 warehouse units
- 2025-2026: Phase 2 – 2 warehouse units
- 2027-2028: Phase 3 – 2 warehouse units
- 2029-2030: Phase 4 – 2 warehouse units
- 2031-2032: Phase 5 – 2 warehouse units

Reason: In order to control the rate of construction and its impact upon local amenity.

7. Prior to any of the warehouses coming into use, a specific post-construction lighting plan, showing measures to minimise light pollution and contain any light spill in the direction of the golf course must be submitted to and approved in writing by Moray Council as planning authority (in consultation with the Environmental Health Manager). The permanent lighting design must incorporate

the mitigation measures identified in para 8.6.42 of the “Ardcanny Maturation Warehousing EIA” submitted as part of the application.

Reason: In order that more detailed consideration can be given to the proposed lighting arrangements for the development.

8. Unless otherwise agreed in writing with the Council as Planning Authority, the development shall be constructed and operated in accordance with Table 13.1 Schedule of Environmental Commitments contained within the “Ardcanny Maturation Warehousing EIA” Report submitted as part of the application.

Reason: In order to ensure that construction operations are undertaken in accordance with the proposed mitigation measures and commitments to minimise or prevent environmental disruption and reduce the impact of the development.

9. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). This limit shall include no waiting or stacking of HGV construction traffic approaching the site on Burnside Street outwith these times. The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

Reason: To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours.

10. No development shall commence until a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise (including vibration), dust and artificial lighting. Thereafter the development will be carried out in accordance with the agreed plan.

Reason: In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents.

11. During hours (0700 to 2300 hours), the rating level of noise associated with the development shall not exceed 30 dB at the nearest noise sensitive dwelling which has lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level associated with this condition is defined within BS 4142: 2014+ A1:2019 Methods for rating and assessing industrial and commercial sound.

Reason: In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

12. Unless otherwise agreed in writing with the Council the development must adopt

the measures detailed in the EIAR: Technical Appendix 8.4: Reptile Species Protection Plan Para 5.4 – 5.6 Ecology Mitigation and Compensation measures and associated Technical Appendix 8.4: Reptile Mitigation Plan.

Reason: In order to ensure protected species are given the full range of protection cited within the Environmental Impact Assessment Report.

13. If the Ardnilly farmhouse is to be demolished any later than 1 year from the date of the planning approval a further pre-commencement bat survey (and habitat survey for other species) must be undertaken and the recommendation submitted to and approved by the Council as Planning Authority in writing prior to the demolition being carried out.

Reason: In order to ensure that an appropriately recent survey has been undertaken prior to any demolition of the dwelling.

14. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: In order to ensure that fuller consideration can be given to the potential presence of archaeological assets upon the site and to safeguard and record the archaeological potential of the area if present.

15. Unless otherwise approved in writing with the Council as planning authority, all warehouses, other buildings, the pump house and switch room must be built in accordance with the most up to date submitted drawings (and specified materials and colours) hereby listed on this planning approval.

Reason: In order to ensure that the development is built in accordance with the approved plans and colours as applied for.

16. Unless otherwise agreed with the Council as Planning Authority the development must be progressed in accordance with the approved Tree Protection Plan drawing number 1301.2 - TPP, and nine specific Tree Constraints Survey Plans drawing numbers 1301 – TCP to 1301.9 – TCP.

Reason: In order to ensure that the various trees throughout the site to be retained are protected.

Reason(s) for Decision

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

The proposal accords with the relevant policies of National Planning Framework 4 but constituted a minor departure from several policies of the Moray Local Development Plan 2020. Departures from policy EP6 Settlement Boundaries and EP7 Forestry, Woodland and Trees were noted but on balance these did not attract such material planning weight as to constitute grounds to refuse the application. In light of existing distillery uses upon the east end of the site outwith the settlement boundary and the proposals to provide very substantive native tree planting across the site while removing a number of existing trees allows the departures to be treated as minor acceptable departures.

There were no material considerations that would indicate otherwise, preventing approval.

List of Informatives:

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

A Building Warrant will be required for the proposals.

Prior to demolition of the Ardcanny farmhouse, a possible need for a bat license from Naturescot and updated bat survey may be required.

The TRANSPORTATION MANAGER has commented that:-

Before commencing development the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing transport.develop@moray.gov.uk

Prior to the commencement of deliveries or construction work a Section 96 Agreement under the Roads (Scotland) Act 1984 between the Developer and the Roads Authority must be confirmed in writing by the Roads Authority. This is to ensure that the costs to repair any damage to the public roads as a result of the construction work traffic are met by the applicant. Guidance on the form of the agreement can be provided on request by emailing transport.develop@moray.gov.uk

No site traffic shall be allowed to load/unload, wait or park on the U179E Burnside Street.

If required, street furniture which needs to be repositioned will be at the expense of the developer. In addition any existing roadside ditch may require a pipe or

culvert. Advice on these matters can be obtained by e-mailing transport.develop@moray.gov.uk

The applicant shall ensure that their operations do not adversely affect any Public Utilities, which should be contacted prior to commencement of operations.

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

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

The SCOTTISH ENVIRONMENTAL PROTECTION AGENCY has comments that:-

Control of Major Accident Hazards Regulations 2015 (COMAH)

The adjoining Glenrothes Distillery is presently a COMAH 'Lower Tier' site under The Control of Major Accident Hazards Regulations 2015. Due to the close proximity of the proposed new warehousing to the existing distillery, it is likely the COMAH Competent Authority (HSE & SEPA) will aggregate the increased storage afforded by the development to the distillery. Distilled spirit is a Section 'P5c' dangerous substance under Schedule 1 of the Regulations as it is classed as a flammable liquid. The combined site will eventually reach the 50,000 tonne threshold for an 'Upper Tier' premises and will be subject to more stringent requirements. Discussions will be necessary between the COMAH Competent Authority and the Applicant to determine the date on which the UT threshold may be reached, based upon the rate at which distilled product is storing up in the new warehousing, as constructed over a phased period. A new COMAH Safety Report will be required before the UT threshold is reached. Concurrently, an Environmental Risk Assessment (ERA) should be undertaken to determine the potential for a Major Accident to the Environment ('MATTE') from the enlarged premises, in accordance with recognised evaluation methodologies (eg Scotch Whisky Association, or CDOIF – Chemical and Downstream Oil Industries Forum).

Due to the revised nature of this proposal, in terms of a plan for 10 warehouses instead of 19, any previous consent obtained under The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 for the increased warehousing capacity, will now require a fresh application to be made to the Local Authority under these Regulations. The application should be made now, if it has not already been done. Both SEPA and HSE are also statutory consultees in this separate but related process.

The detailed design of the premises should follow recognised good practice as laid down by the Scotch Whisky Association and HSE and observe any further and relevant guidance as signposted under the COMAH Regulations which address technical elements as they relate to specific parts of the site, including the Warehousing, the Tank Farm, the FSDU, the Tanker Loading Bay, as well as the ancillary services (electrical, mechanical and chemical) which service these parts.

Further details of COMAH requirements and contact details of the regulatory services team, if the applicant requires further COMAH advice, can be found on our website at: <https://www.sepa.org.uk/regulations/control-of-major-accident-hazards-comah/>.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
1301-TCP	Tree constraints survey plan 1
1302-TCP	Tree constraints survey plan 2
1303-TCP	Tree constraints survey plan 3
1304-TCP	Tree constraints survey plan 4
1305-TCP	Tree constraints survey plan 5
1306-TCP	Tree constraints survey plan 6
1307-TCP	Tree constraints survey plan 7
1308-TCP	Tree constraints survey plan 8
1309-TCP	Tree constraints survey plan 9
1301.2 - TPP	Tree Protection plan
EC22368.00.101	Location plan
101 P01	Phasing plan
EC22368:00:105	Proposed drainage plan
EC22368:00:113	Proposed earthworks sections
EC22368:00:103	Proposed site plan
EC22368:00:104	Proposed site plan with levels
EC22368:00:106	Proposed SUDS pond cross sections
EC22368:00:102	Route to and from site
EC22368:00:115	Sprinkler pump house - elevations
EC22368:00:122	Stacker shed - elevations
EC22368:00:116	Storage tank layout and details
EC22368:00:123	Switchroom - elevations
EC22368:00:121	Tank farm - elevations
EC22368:00:120	Tank farm - general arrangement
EC22368:00:124	Typical construction details - 1 of 2
EC22368:00:125	Typical construction details - 2 of 2
EC22368:00:108	Warehouse elevations - 1 of 3
EC22368:00:109	Warehouse elevations - 2 of 2
EC22368:00:110	Warehouse elevations - 3 of 3
EC22368:00:107	Warehouse - floor plan
EC22368:00:111	Warehouse - roof plan
EC22368:00:112	Office/Welfare building - elevations and floor plans

EC22368:00:126		FSDU floor plan
EC22368.00.117	A	Elevations - 1 of 3
EC22368.00.118	A	Elevations - 2 of 3
EC22368.00.119	A	Elevations - 3 of 3
102	P05	Landscape layout - softworks
100	P04	Landscape masterplan



PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:
22/01673/EIA**

**Site Address:
Land West Of Glenrothes Distillery
Burnside Street Rothes**

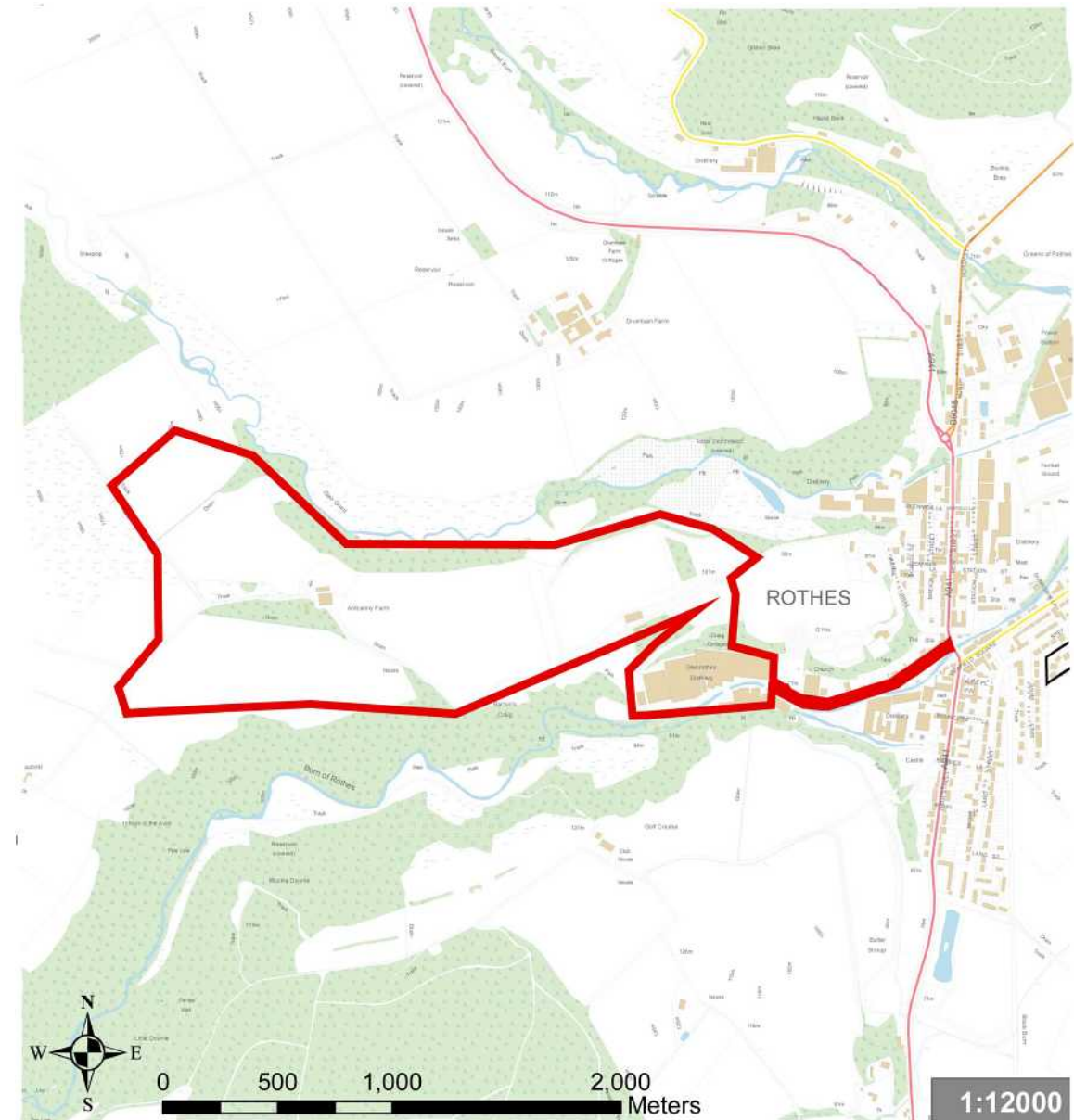
**Applicant Name:
The Edrington Group**

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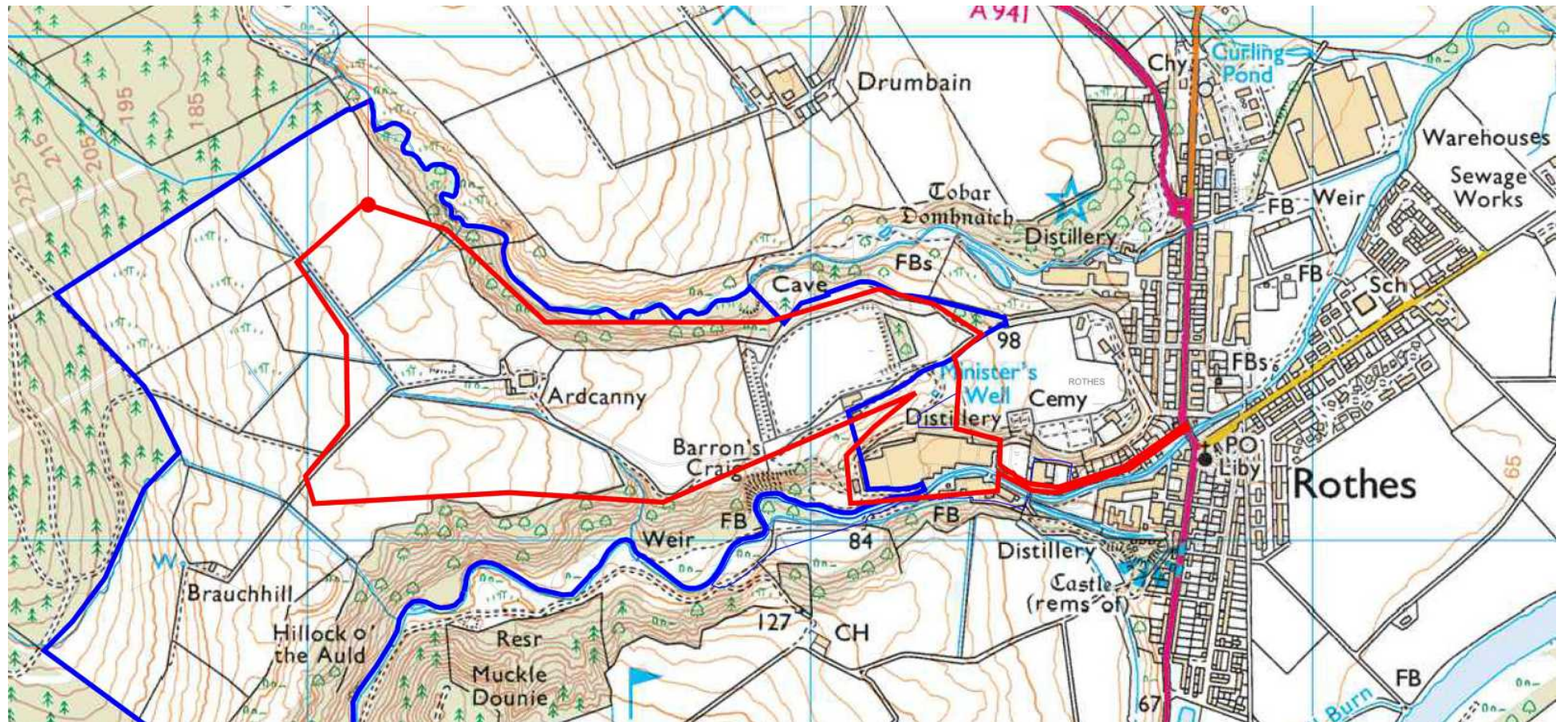
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Location Plan



Site Location



Site plan



Landscape layout



- SITE BOUNDARY
- PLANTING / SCOTCHINGS**
- EXISTING WOODLAND (refer to tree survey for further information)
- EXISTING PATH RETAINED
- EXISTING TREES RETAINED (refer to tree survey for further information)
- EXISTING TREES / TREE BLOCKS TO BE REMOVED
- EXTENT OF PROPOSED WOODLAND PLANTING BED (WOODLAND TREE & SCOUR PLANTING MIX) (Front edge of planting bed to be set out as a feathered edge with open grids formed. Minimum planting distance of 1.5m (tree-to-tree) to be maintained)
- AMENITY VERGES TO WAREHOUSE SURROUNDS TO BE MAINTAINED AS CUT GRASS
- SPECIES RICH ACID GRASSLAND AND WILDFLOWER MIX (refer to schedule for mix existing areas of local health and ecological gradient to be retained on undisturbed land (extent to be marked on site with project ecologist)
- WETLAND GRASS MIX TO SMALL & TUSsock FIRE POND (refer to schedule for mix)
- PROPOSED PEDESTRIAN PATH THROUGH WOODLAND EDGE (surface to be excavated grass with small ridge crossings where required)
- EXISTING BIRCH VEGETATION / BRUSHCOVER RETAINED TO UNDISTURBED LAND
- COMPACTED ANGULAR GRAVEL TO WAREHOUSE SURROUNDS
- ASPHALT SURFACING (refer to engineers drawings and details)
- EXISTING LANDSCAPE TO ADJACENT WAREHOUSE RETAINED
- PROPOSED SECURITY FENCE REFER TO ENGINEERING SPECIFICATION

The Contractor shall ensure that all plant material brought on site is maintained in good condition and protected from theft, frost or damage of any sort.

Trees, shrubs, edibles and transplants shall be checked from sources lists from the end October to mid March and at no time between May and planting shall the plant material be subjected to adverse conditions. The plant material shall be checked and handled in such a manner as to avoid damage to the roots or aerial parts of the plants. Packaging shall be adequate for the protection of the plants to avoid bruising or drying out, and shall conform to the following:

- All shrubs and transplants shall be packed in hessian bags. The top of each bag shall be securely tied and labelled with species and quantity. All transplants shall be fully enclosed with each hessian bag.
- During planting operations, all plant material shall be adequately protected while awaiting planting, to protect roots from drying and cold winds, and to prevent physical damage.
- All bare rooted plant material arriving at site on Contractor's conveyance shall be organised within 24 hours unless they are to be planted within 48 hours. Plant material shall be supplied with protection to roots and stems and packed in such a way as to avoid any damage. After delivery of planting material to the site, bare root plant material shall be headed up by placing the roots in a prepared trench and covering them with soil, which should be replaced to avoid or prevent exposure to the roots, or a shelter to be supplied with the Landscape Architect.

The Contractor shall be responsible for setting out all areas to the satisfaction of the Landscape Architect. Their material shall be planted in the numbers indicated on the drawing and plant schedule or as directed on site by the Landscape Architect. The Contractor will be responsible to achieve the distribution of plant material as shown on the drawing. Planting throughout shall be in accordance with BS 6842:1985 and good horticultural practice. Attention must be paid to correct depth of planting and that the soil is firmed around the roots.

On completion of planting, all areas that be left clear and tidy and all adjacent established grass and paved areas etc. reinstated as required.

Further: Further shall be IC: Dring also where supplied by IC: Agromark, Professional products, Farnham, Halesware, Sunny 0227 JJC equal and approved slow release fertiliser.

Root dip: Root dip solution shall be a seaweed/sty based alginate solution prepared in accordance with the Manufacturer's written instructions.

Prior to planting, all bare root plants shall be completely immersed in a container of root dip solution and put grown plants shall be sprayed with the solution.

WOODLAND PLANTING SPECIFICATION

WOODLAND TREE PLANTING MIX (to areas of dry ground and raised ground)

Mix of bare root or cell grown trees (depending on availability)

All trees to be planted to be fitted with 100mm tree shelters. Trees planted at 2m centres

*Trees to be qualified to meet 2m edge of planting

Layout: All planting blocks to have feathered edge with random groups of no less than 3 or more than 7 of the same species, ensuring that no three plants are aligned in any one direction. Tree blocks to be seeded with Highland Grassland Mix.

15%	Alnus glutinosa	1 + 2 Transplant, BR	40-60/16
25%	Betula pubescens	1 + 2 Transplant, BR	60-80/16
10%	Crataegus monogyna	1 + 2 Transplant, BR	40-60/16
3%	Prunus spinosa*	1 + 2 Transplant, BR	40-60/16
15%	Acer campestre	1 + 2 Transplant, BR	60-80/16
5%	Corylus avellana*	1 + 2 Transplant, BR	40-60/16
5%	Viburnum opulus*	1 + 2 Transplant, BR	40-60/16
3%	Ilex aquifolium*	1 + 1 Transplant, BR	40-60/16
15%	Prunus sibirica	1 + 1 Transplant, BR	60-80/16

WOODLAND TREE PLANTING MIX Cont. (to areas of wet ground confirmed or s/s)

Mix of bare root or cell grown trees (depending on availability)

All trees to be planted to be fitted with 100mm tree shelters. Trees planted at 2m centres

Wet Ground mix			
30%	Alnus glutinosa	1 + 1 Transplant, BR	60-80/16
20%	Salix aurita	1 + 1 Transplant, BR	40-60/16
30%	Salix chamae	1 + 1 Transplant, BR	40-60/16

SCOUR PLANTING MIX TO WOODLAND EDGE AND GLADES (areas to be set out on site to the 2m outside edge of woodland planting)

Mix of bare root or cell grown material (depending on availability)

All plants to be fitted with 600mm shrub shelters

20%	0.5m centres	Betula nana	40/60CM PL 1+1 BR
20%	0.5m centres	Rubus fruticosus	40/60CM PL 1+1 BR
20%	0.5m centres	Ilex aquifolium	40/60CM PL 1+1 BR
20%	0.5m centres	Corylus avellana	40/60CM PL 1+1 BR
20%	0.5m centres	Ilex aquifolium	40/60CM PL 1+1 BR

GRASS SEED MIXES

- Seed Mix to Dring Drove / Swale Bank
- Wet Meadow Mix (to s/s) seeds to 9000/ha and wetland areas. Area seeded at 3.5g per m²
- Species rich acid grassland and wildflower mix (Highland Grassland Mix by Scotts Seeds, additional species (Ilex/maiba) mixed to be added in coordination with project Ecologist)
- Amenity verges to warehouse surrounds to be maintained as cut grass (General WFC08 Eco species Rich lawn 15g/m²)

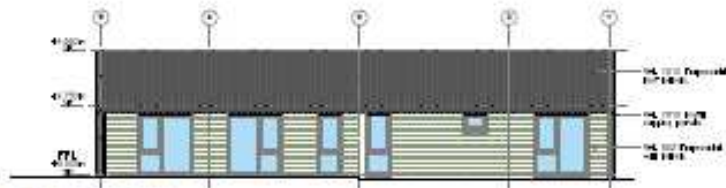
Typical planting matrix set out at 2m centres scale 1:200



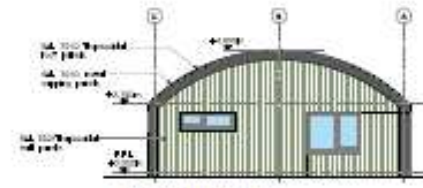
Office and welfare building



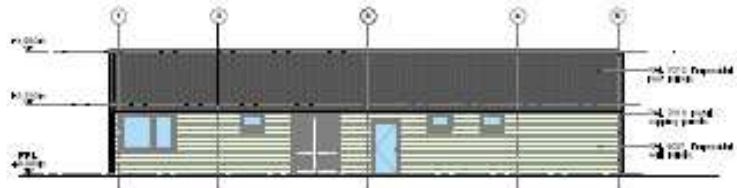
OFFICE / WELFARE FLOOR PLAN



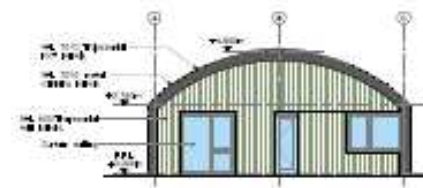
EAST ELEVATION



SOUTH ELEVATION

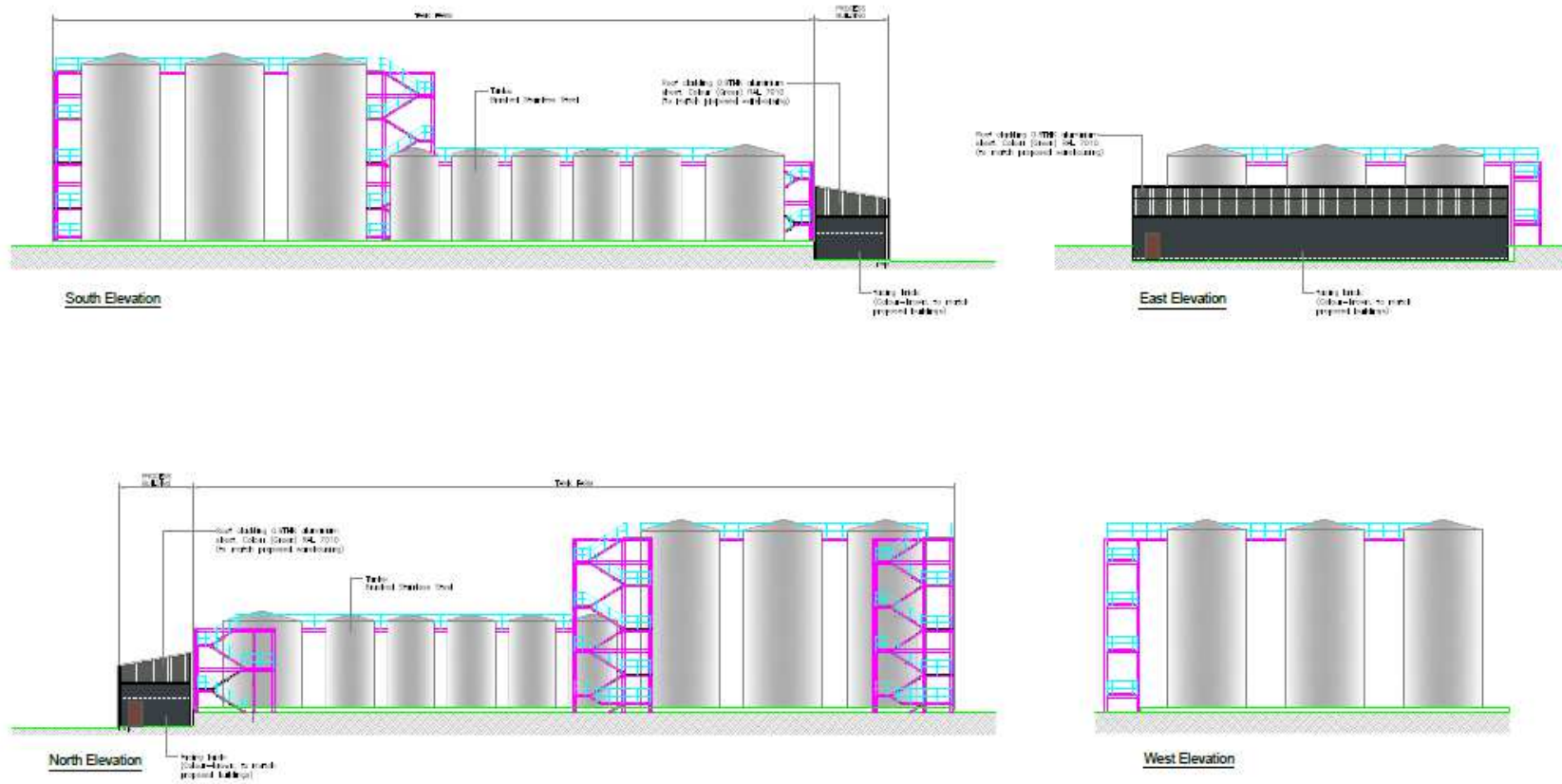


WEST ELEVATION

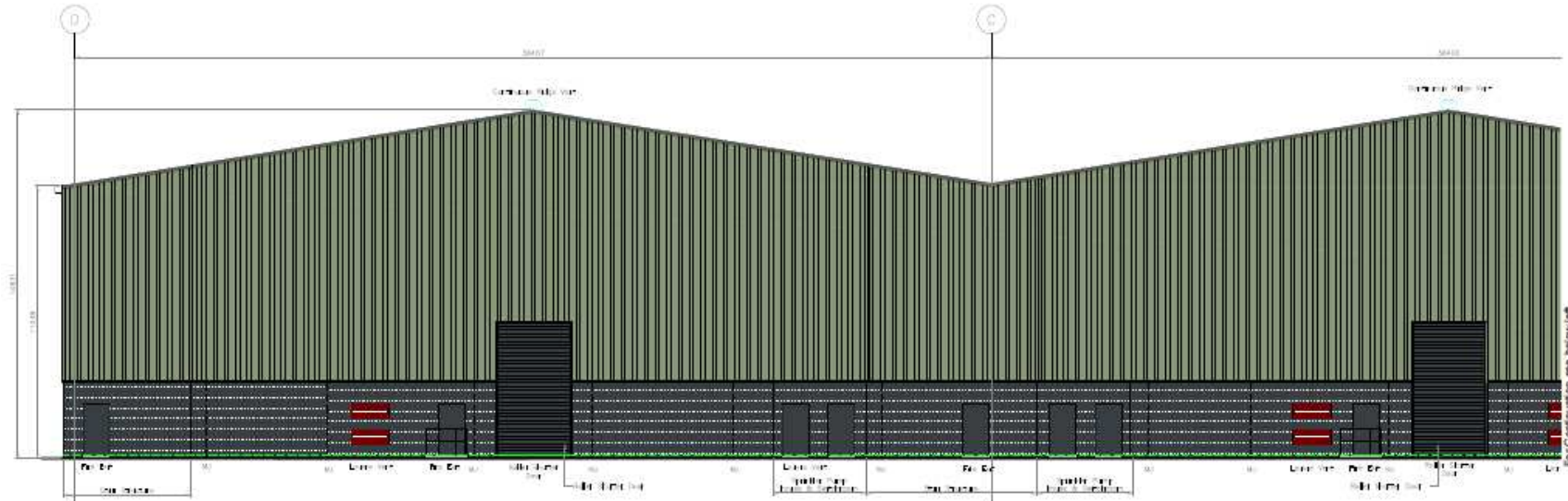


NORTH ELEVATION

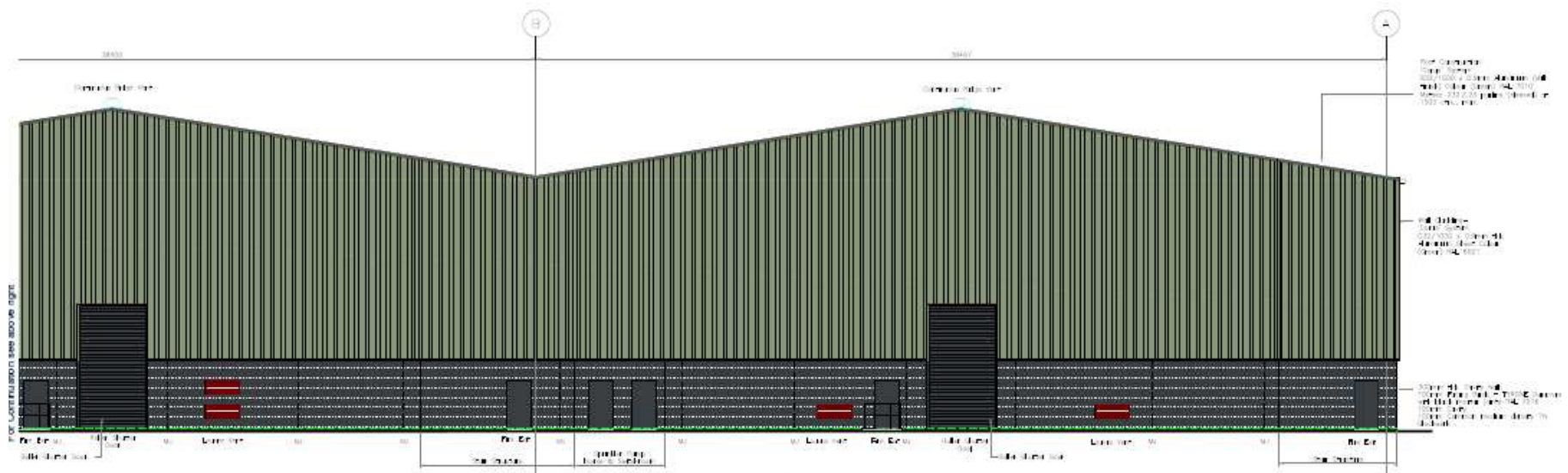
Tank farm



Front elevation



Front Elevation



Front Elevation

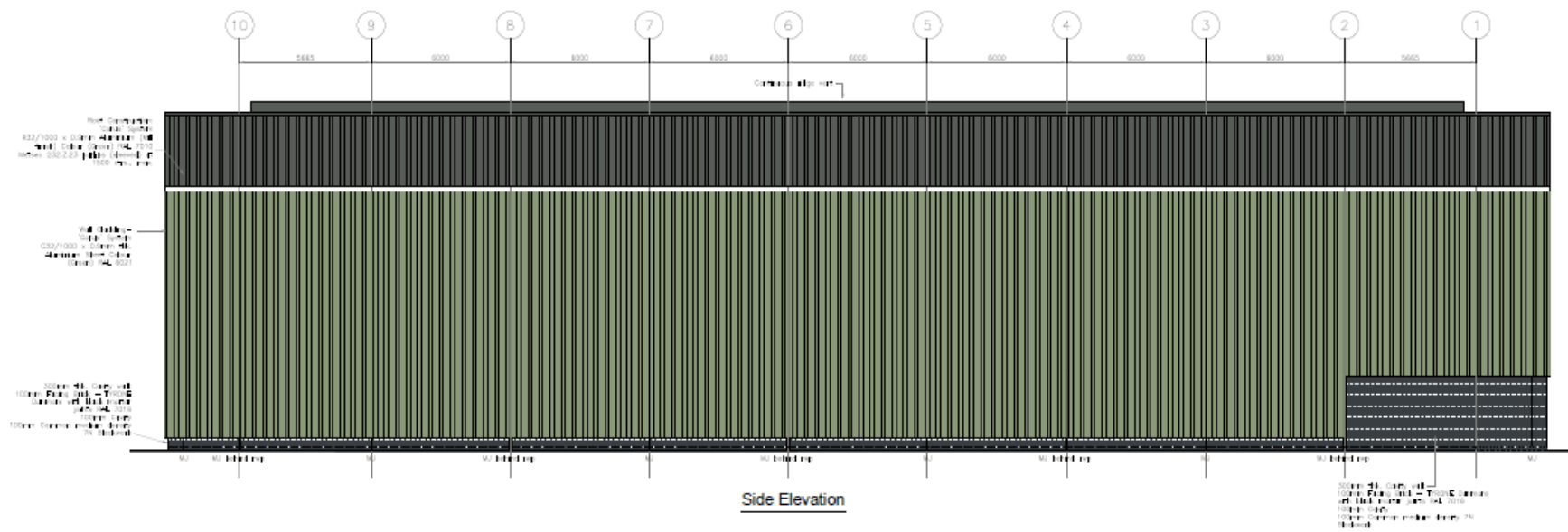
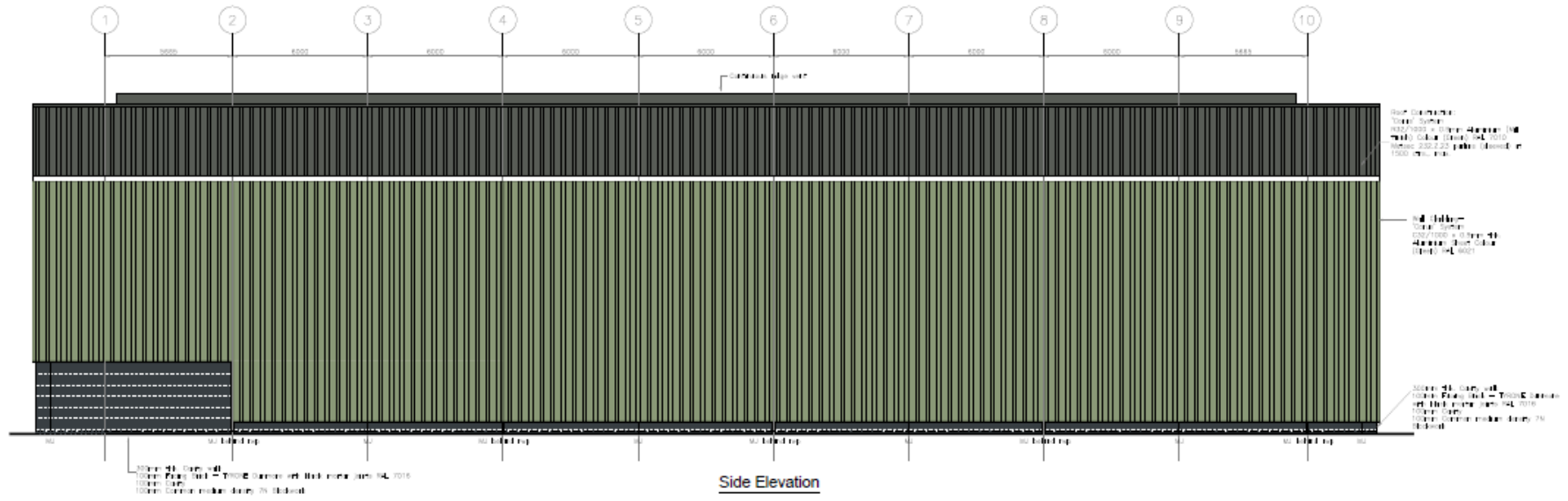
For Continuation see below right

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For Continuation see above right

Side elevation



Looking east from site entrance towards Manse Brae



Looking north from Ardnilly Farm



Looking north from site entrance over site



Looking south east from site entrance towards Burnside Street



Looking south from Ardcanny Farm towards golf course



Looking south west from Ardcanny Farm



PLANNING APPLICATION: 22/01673/EIA

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

1. THE PROPOSAL

- Internal access roads developed off of existing main access road with Glenrothes Distillery.
- 10 maturation warehouse buildings. These buildings will take the form of 3 cell blocks with each measuring 115.3m long, 53.3m wide, 11.43m to eaves and 14.63m to ridge height. The warehouses will be finished with a lower course of light brown brickwork, upper walls and roof with green aluminium cladding.
- Tank farm and bay area for tankers. This tank farm is substantive in size with a variety of tank sizes, all stainless steel with metal gantries and stair ways surrounding them. The tank farm has a covered area at one end, and will measure 30.5m by 62.5m long. Nine taller tanks being up to 15.5m in height, with twenty-four smaller tanks 7.7m high.
- Filling Store and Disgorging Unit (FSDU). This building will measure and comprise of two parallel curved roofs (trapezoidal roof) will be 56m long, 32m wide 9m high at its highest point. It will be finished with green metal profile sheeting.
- Stacking shed, with similar green metal cladding to other buildings will be 6.5 x 6.5m by 7.8m high.
- Office and welfare building and facilities, also with curved trapezoidal roof measuring 10m wide, 20m long, 4.95m high. Grey metal roofing and light green wall panels.
- A flat roofed brick sprinkler pump house, 6.8m x 6.8m x 4.4m high would sit next to two stainless steel water tanks 12.8m in diameter and 7.8m high.
- Laydown area for cask storage, and handling area for vehicles in front of FSDU.
- Electrical switch room, is a flat roof, brick building measuring 6.8 by 6.8m and 3.3m high.
- Swales alongside the warehouses are proposed as part of a wider Sustainable Drainage Systems (SuDS) with includes provision of 3 ponds. The ponds will be formed as part of 3 separate catchment areas, which will be developed in conjunction with the below warehouse phasing.
- Approximately 15 hectares structural woodland planting and different grass and meadow types is proposed following the removal of approximately 0.2 hectare of existing woodland. There will also be the removal of a number of individual trees. Some managed areas of grass surrounding the warehouses themselves beyond the wider grass planting mixes.

- A 2.4m high green paladin fence will surround the various buildings and tank farm, with some of the landscaped areas sitting outwith the secured fenced areas.
- The proposals include the demolition of Ardcanny farmhouse.
- Public access to Ardcanny Farm track retained, until diversion at phases 4/5 where the new path will be completed at southern edge of the site leading southwest to Brauchhill leading onto established forestry paths outwith the site.
 - Phasing of the development;-
 - 2023: Preparatory works and landscape planting
 - 2023-2024: Phase 1 – 2 warehouse units
 - 2025-2026: Phase 2 – 2 warehouse units
 - 2027-2028: Phase 3 – 2 warehouse units
 - 2029-2030: Phase 4 – 2 warehouse units
 - 2031-2032: Phase 5 – 2 warehouse units
- A connection to the public water supply is required, but no foul sewer connection would be required.

2. **THE SITE**

- The site sits west of the settlement of Rothes, and lies on an elevated shoulder of land above the village, and between two valleys formed by the Back Burn and Burn of Rothes which both flow into Rothes to the east.
- The site extends to approximately 50 hectares, and occupies what is currently existing distillery laydown space/barrel storage and former Ardcanny Farm. There are several stands of woodland throughout the site, field margins and farm tracks. The site boundary extending eastward into the settlement boundary also covers settlement site designations Rothes - I2. The Distilleries and ENV6 - Natural/Semi-Natural spaces.
- The site lies across undulating land, but of note there has already been substantive earth works at the east end of the site where the existing barrel storage areas exist, where the land has been levelled and soiled bounded around the margins of these working areas.
- Access to the site is confined to access through Glenrothes Distillery and Burnside Street leading to New Street (A941). There a residential properties on Burnside Street east of the existing distillery through which access is sought.
- There are no national or local environmental designations affecting the site, other than the woodland inventory where native and inventory woodland flanks the existing access track leading up to Ardcanny Farm.
- There is no prime agricultural land within the site boundary.
- The existing distillery is a registered HSE site, and the proposal falls within the consultation distance for it lying immediately to the north of the distillery.

3. **HISTORY**

For the site

23/00184/HAZ - Hazardous substance consent application on Land West of Glenrothes Distillery Burnside Street, Rothes, Moray. This applicant is still pending and related to the development subject of the current application.

22/00057/PAN - Received in January 2022, a proposal of application notice was received for this site and a larger area proposing new maturation warehousing (21no 3-cell warehouses), FSDU, wetlands, SuDS ponds, tree nursery and associated roads and services. The subsequent application reduced this number and area back further east than was proposed at the PAN stage.

21/01010/SCO - Environmental Impact Scoping request for the proposed development comprises whisky maturation warehouses a tank farm tanker bay filling store disgourging unit (FSDU) office and welfare building at the same site subject of this application. The purpose of the scoping exercise was to assist in advising the developer as to what information should be included, and brought within the scope of any supporting EIA Report. This exercise was carried out in late 2021.

00/02012/SUB - Deemed hazardous substances consent issued for the existing Glenrothes Distillery and cask storage area approved under planning application 00/01226/FUL. Deemed consent issues December 2000.

00/01226/FUL - Planning permission granted at Committee to form a cask storage compound at Glenrothes Distillery, Burnside Street, Rothes, Aberlour, Banffshire, AB38 7AA. Approved in October 2020, this area occupies the eastern end of the development on the area proposed for warehouses 1, 2 and 3.

On nearby land

23/00519/S37 - New electric line installed above ground with a voltage of 132 kV or more between Rothes III Wind Farm on-site substation, and Blackhillock substation at Keith. Two sections of underground cable (UGC) are anticipated. The first is at the western end of the connection for approximately 500 m as it would leave Rothes III Wind Farm on-site substation. The second section of UGC is on final approach to the connection point at Blackhillock substation in the east (1080m in length) - both permitted development. This is a current Energy Consents Unit application for which Moray Council is a consultee. This has yet to come before committee for consultation. This proposal, comprising of 16m high trident poles, will pass no closer than approximately 300m north-west of the proposed warehouses.

4. POLICY

National Planning Framework 4 (NPF4)

NPF2 - Climate mitigation and adaptation

NPF1 - Tackling the Climate

NPF3 - Biodiversity

NPF4 - Natural Places
NPF5 - Soils
NPF6 - Forestry, woodland and trees
NPF7 - Historic assets and places
NPF9 - Brownfield, vacant, derelict land
NPF12 - Zero waste
NPF14 - Design, quality and place
NPF18 - Infrastructure first
NPF20 - Blue and green infrastructure
NPF22 - Flood risk
NPF23 - Health and safety
NPF25 - Community wealth building
NPF26 - Business and industry
NPF29 - Rural development

Moray Local Development Plan 2020 (MLDP)

PP1 Placemaking
PP2 Sustainable Economic Growth
PP3 Infrastructure and Services
DP1 Development Principles
DP5 Business and Industry
EP2 Biodiversity
EP3 Special Landscape Areas
EP5 Open Space
EP6 Settlement Boundaries
EP7 Forestry Woodland and Trees
EP12 Management and Enhancement Water
EP13 Foul Drainage
EP14 Pollution Contamination Hazards
Rothes - I2 The Distilleries
Rothes ENV6 - Natural/Semi-Natural
Rothes ENV9 - Cemeteries and Proposed Extensions

5. ADVERTISEMENTS

5.1 Advertised for neighbour notification purposes and as a departure from the Moray Local Development Plan 2020.

6. CONSULTATIONS

Summary of consultation responses.

Speyside Community Council - The proposal represents a development over a very large area, making the scale of this development far too large for the surrounding area to accommodate. The proposal constitutes an unacceptable departure from MLDP on several policy grounds.

The proposal will result in the loss of productive agricultural land, and food production and food security need to be considered. The development will result in the loss prime agricultural land, and there has already been significant

loss of productive agricultural land due to other approved development locally and beyond in Moray. The site also covers the Natural/Semi-Natural Greenspace (ENV 6).

It is questioned why the whisky could not be stored nearer to its bottling plant and eventual market place in the central belt. It would be more environmentally acceptable to have the warehousing built closer to the bottling plant and blending facility in the central belt. It is not believed that locational justification for this site has been made. By not finding a brownfield site near the bottling plant the proposal has a larger carbon footprint and is less environmentally acceptable.

No other distilleries currently have developments of the size and visual impact of this one. The applicant must surely have a collective responsibility to the rest of the whisky industry to maintain the essential elements of the selling points of the Speyside environment which they themselves use in their promotional material.

Careful selection of colours for the warehousing seems to be a little irrelevant as the warehouses, just like the houses and trees near the distillery, will succumb to blackening in a short space of time. This blackening is widespread and expensive for residents to clean from their homes.

This is a Special Landscape Area and the aim should be to safeguard and enhance its character. Development proposals in this SLA must reflect the traditional settlement character in terms of siting and design, and respect the special qualities of the designation. Nothing that we have seen regarding siting, quality of design, landscaping or compensatory tree planting will minimise the landscape and visual impact on the SLA, including views and vistas along the Spey Valley. The proposal will not enhance or conserve the natural and built environment and integrate into the landscape.

Notwithstanding the construction period, there will be no additional distillery jobs created.

There will be considerable disruption to Rothes and the residents of Burnside Street, in particular, for a considerable number of years whilst the build is phased in.

The duration of planning permission is unacceptable, and 10 years should be reduced to 5 years. Four or five warehouses to be built immediately but certainly within 2 years of planning permission being granted. This would significantly reduce the disruption caused by extended periods of phased building works. Reapplying for an expansion at a later date is more democratic because the community can decide, at that stage, whether they think the expansion is acceptable rather than having it imposed upon them for many years to come.

Whilst used for the distillery the road does not conform to modern road dimensions and there is no sign at the entrance saying it is priority junction. The A941 through Rothes is already extremely busy with HGV's and other traffic.

Various businesses in the area already contribute to heavy traffic in the village, and a bypass is needed.

Moray is recognised for the quality of its scenery and natural heritage. We need to protect it.

Officer Note - Contrary to the concern raised, none of the land within the site is classed as Prime Agricultural Land. It is presumed that the consultee referred (in good faith) to the high level National Soil Maps plans available online, which suggest the east of the site fall into the classification of 3.1, prime agricultural land. More detailed maps have however been produced for Moray, which are used by Officers which show the area in question is not prime land, with any grade 3.1 land lying only to the east of Rothes on the river valley floor.

Concern is raised over the application seeking a 10 year permission duration, but what this is understood to relate too is the duration of phasing proposed by the applicant, which would see the 10 warehouses built over a 10 year period. The applicant has not sought for the planning permission itself to have a defined period, and applied for the planning permission would last for the statutory 3 year period within which construction will have to have lawfully commence.

Concern was raised over the possible safety incompatibility of the warehouses, officers liaised further the applicant with SSE Distribution who are applying separately to the Energy Consents Unit for an overhead power line for electricity transmission from Rothes III windfarm which has yet to be built. It is noted that the nearest proposed warehouse would be approximately 300m distance from the proposed overhead power line. The applicants have observed guidance set out in Dangerous Substances and Explosive Atmosphere Regulations (DSEAR) and are required to carry out a risk assessment on all potential risk areas for combustible uses, such as maturation warehouses. Given the dissipation of ethanol once it leaves any opening in the building, any 'ignition risk' would only be of concern if it were within 1m of the building. It is therefore reasonable to put such concerns to rest given that the proposed overhead lines would sit many hundreds of metres from the proposed warehouses.

Transportation Manager - Approve subject to a number conditions and informatives. It is noted that these conditions include the need for some enhancements to Burnside Street and the need to approve a detailed Construction Traffic Management Plan.

Scottish Water - No objection. Applicants should be aware that Scottish Water may have infrastructure in the locality and that they should submit a separate Asset Impact Assessment to Scottish Water if the development is to proceed.

Strategic Planning and Development - Supportive of the development, and agree with the rational of its location given the analysis of the alternative locations. The proposal is considered to depart from MLDP policies EP6 Settlement Boundaries due to its proximity to the Rothes Settlement Boundary and policy EP7 as the site clearance will affect a small number of category B

trees. In both cases, these can be treated as acceptable departures from the Local Development Plan.

Environmental Health Manager - Approve, subject to various conditions and informatives relating construction hours and noise limits during construction.

Environmental Health Contaminated Land - No objections.

Environmental Health Private Water Supplies - No objections.

Planning and Development Obligations - No obligations required.

Moray Flood Risk Management - No objections.

Moray Access Manager - The presence of paths through the site is noted, and keeping pathways through the site to the areas further west should be safeguarded by an Access Management Plan.

Nature Scot - No objections. The proposed mitigation summarised in the EIA Report is noted.

Aberdeenshire Council Archaeology Service - Approve subject to a condition regarding the need for an archaeological written scheme of investigation.

Health and Safety Executive - No objections, and note that a separate Hazardous Substances Consent applicant has been lodged.

Police Scotland - No objections.

Spey Fishery Board - No objection on the assumption that the mitigation and protection of the watercourses leading to the River Spey are suitably protected.

7. **OBJECTIONS-REPRESENTATIONS**

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

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

All representations have been considered, and where material to planning given the appropriate weighting as part of the overall recommendation to Committee. Below is a summary of the representations received and officers response where necessary.

Issue: The level and frequency of distillery related vehicle movements is already excessive and detrimental to amenity without considering the possibility of additional construction traffic.

Comments (PO): The Transportation Manager has been consulted and subject to the conditions recommended has not objected to the proposals. It is acknowledged that the construction activity will occur over a ten year period, albeit at a rate of one warehouse per year. In the long terms, whisky from the distillery would be transported to the warehouses as and when they are constructed rather than to maturation storage elsewhere. This will reduce some vehicular movements for the years it takes to fill the warehouses.

Issue: The current distillery traffic is already noisy, and runs throughout the night, with Lorries often waiting with engines running outside residences in the middle of the night waiting for other Lorries to pass.

Comments (PO): Conditions are recommended to ensure that construction traffic will not contribute to such activity during the evening or night. Current distillery traffic is however outwith the remit of this application.

Issue: Burnside Street is not suitable for such levels of traffic and HGVs mount the grass verge and pavement at present. Passing Lorries come very close to front doors when mounting the pavement and the pavement should potentially be barriered to prevent this.

Comments (PO): Whilst these issues related to the operational distillery, rather than the proposed development traffic, the need to enhance the road where possible is reflected in a recommended condition to impose some improvements, possibly such as passing places on Burnside Street. Conditions also seek to prevent construction HGV's from waiting or 'stacking' on Burnside Street while waiting to enter the construction site.

Issue: Concern that there will be light pollution from the development affecting the village and astronomy interests.

Comments (PO): The applicants have stated their intent to have the construction lighting and the operational lighting kept to a minimum and designed so as not to cause light pollution. A condition is recommended seeking to ensure the post construction lighting arrangements for the warehouses minimise any light pollution.

Issue: The Lorries pose a danger to the houses and increase vibration experienced at the properties.

Comments (PO): Subject to the condition recommended regarding some improvements to Burnside Street, it is not considered that Burnside Street is unfit to accommodate the additional traffic.

Issue: The warehouses will be highly visible from many directions.

Comments (PO): See observations section. The site is visually well contained from view from the majority of the village and the A941. It will be visible from several houses on Manse Brae and golf course, but other only from elevated views and Ben Aigen.

Issue: There is a popular pathway/trail linking Ardcanny Farm to the forestry and fields beyond. Will this route be maintained or will a trail for public use be created?

Comments (PO): The applicant's submission do show a new path formed along the south edge of the site, and the intent is to ensure this path is in place before any access through Ardcanny Farm is closed to public use.

Issue: Concern over possible odour, its health implications and an increase in black stuff caused by the warehouses reaching Burnside Street. With Scotland's drive to be carbon neutral this seems to be going against that process.

Comments (PO): The development is located some distance away from the Burnside Street and would sit further from objectors than the current working distillery and the current warehouses on site. It is not considered that the warehouse, located several hundred metres from Burnside Street would contribute excessively to the issue of whisky or distillery fungus (*Baudoinia compniacensis*) which already occurs in Rothes. There has been no link made to this airborne fungus, which feeds off airborne ethanol and human health concerns.

Issue: The EIA Report does not address a key aspect of the development, namely evaporative emissions/angels share and the potential impact of the Volatile Organic Compound (VOC, ethanol) on Human Health and the environment. Evaporative loss of whisky (ethanol) from casks during maturation is real and quantifiable, indeed customs and excise declarations from all maturation facilities will accurately state the quantity lost during the maturation process. This proposed facility will not be a passive facility, there will be active emissions of ethanol. Over a number of years millions of litres will evaporate from this development into the local environment. The current government review of potential Human Health and Environmental impacts of ethanol emissions from Scotch whisky maturation means that any decision on further developments should await the outcome the research before being approved.

Comments (PO): There has been no official Scottish Government guidance on this, and given the low rate of emission from whisky warehouses and the bio-degradability of ethanol once escaped it has not to date been deemed a notable health or environmental issue. It is noted the Scottish Government is currently reviewing the specific contribution of Scottish whisky maturation processes on Non-methane volatile organic compounds (NMVOC) emissions in Scotland and as such it would be premature to attach any weight to this matter at this time. This approach is reasonable given the absence of any substantive or confirmed health issues for distillery/warehouse employees or nearby residents.

It is not considered that the Environmental Impact Assessment Report is inadequate as this matter was not raised at scoping and pre-dates any human health element of NPF4 policy. The proposal is also subject to a separate Hazardous Substances Consent which considers the implication for human health.

Applicants Response

The applicant was entitled to response to representations received and most notably replied to the objections raising concerns to the wider environment and human health over the emission of ethanol from the whisky maturation process.

In summary, and noting the matter has been raised with the wider Scottish

Whisky Industry they are working with the Scottish Government in its current assessment of the impact of evaporated whisky ethanol 'Angels Share' as NMVOC. Given the demand for whisky, if the development were not permitted in this basis, the need for whisky maturation facilities would remain and the applicant would just have to seek maturation elsewhere, which would not prevent the Angels Share from releasing.

NMVOC emissions from the maturation of whisky will principally be in the form of ethanol. Ethanol emissions will typically behave in two ways: rapid oxidation in atmosphere, or condensation to liquid droplets which will rapidly biodegrade in soil. Ethanol, therefore, does not build up in the environment and, at the rate of emission associated with whisky maturation, is not considered harmful to health.

Should the governments review identify any changes to best practice for maturation storage practices, appropriate consideration will be given to the relevance of these to the proposed development, and any required changes included in the Operational Environmental Management Plan.

The applicant also responded to the other grounds of representation making similar comments to the officers responses above re prime agricultural land, and other matters specified. They commented that in terms of odour an odour impact assessment concluded that any effects would be negligible to slight adverse and not significant.

Part 7 of the submitted Transport Statement specifically considers the impacts of traffic movement at the construction phase and commits to carrying out a Construction Traffic Management Plan (CTMP).

8. OBSERVATIONS

- 8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

Background and NPF4

- 8.2 In February this year NPF4 replaced Scottish Planning Policy 2014 and provided national planning policies applicable to all 32 local planning authorities in Scotland. This becomes the 'Development Plan' alongside the Moray Local Development Plan 2020 (MLDP) and the relevant policies of both are used as the primary consideration in determining planning application. Where any difference or conflict exists between local and national planning policies, national planning policies take precedence. Of note, application of some of the new national policies is however subdued until supplementary planning guidance is prepared to ensure consistent and clear application of the policies. While policies such as Policy 2 Climate mitigation and adaptation seeks to permit only development that minimises emissions and adapts to the current and future impacts of climate change, this does not preclude economic development and other policies such as Policy 29 Rural Development still support rural development that benefits the viability of the rural economy.

- 8.3 As by way of background, the further detailed local guidance is being prepared to assist with calculating energy assessments for future developments.
- 8.4 The applicants have provided a supplementary NPF4 statement which reviews the proposals against the requirements and policies of NPF4. Noting their observations and cross referencing the EIA Report, supporting documents and proposed development, the submission does accord with the policies of NPF4 subject to the extensive tree planting, mitigation and best practices proposed.

Pre-application Consultation Report

- 8.5 The application is accompanied by a Pre-Application Consultation (PAC) Report, as prescribed under section 35C of the 1997 Act. This outlines the statutory consultation that the applicant undertook with the local community in relation to this application. The form and scope of the pre-application consultation was considered to be suitable, and agreed by the Council in response to Proposal of Application Notice.
- 8.6 The applicant held two consultation events (as it now required) with one reflecting previous Covid restrictions. This meant that they publicised and held a dedicated online public consultation event on 15th June 2022 presenting a larger site than that currently submitted. Between 15th June and 30th June, the consultation website attracted 28 unique visitors, with 122 page views with 4 respondents filling in the questionnaire.
A subsequent public consultation event was held on the 1 August 2022 (4pm-7pm) consultation event in The Grant Hall, Rothes which was host to 38 members of the public. The applicant also attended and presented to a meeting of the Speyside Community Council in late August 2022.
- 8.7 In summary concerns raised were regarding the overall scale of the development, concerns from local residents about the ability of Burnside Street to accommodate additional traffic, particularly large vehicles and queried the phasing of the development. Cumulative traffic impacts in Rothes, loss of habitat, impact on wildlife, visual impact of development and a wish to see local walking routes maintained or enhanced. There was some support for proposed investment and associated economic benefits.
- 8.8 The outcomes of the pre-consultation stage were that the overall scheme was reduced from 19 to 10 warehouses, its impact upon the landscape reduced, broad leave tree planting proposed, footpath link to be maintained through the site toward Brauchhill. The subsequent Traffic Assessment bore in mind the concerns of the number of vehicle movements leading to and from the site.

Environmental Impact Assessment development

- 8.9 EIA Regulation requirements include the need, in giving a reason for the decision, to identify the mitigation measures and any monitoring that substantiates the decision to approve the development, and protect the environment.

- 8.10 The reasoning behind any decision must accompany any planning approval, and therefore this recommendation report, giving a detailed assessment and reasoning for Report of Handling in the form of the Committee Recommendation report would be issued alongside any planning consent if granted. This should contain the reasoning, mitigation and monitoring referred to in Section 29 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.
- 8.11 The application has been supported by a suite of documents such as a Flood Risk Assessment, Drainage Impact Assessment, Flood Risk Assessment, Site Investigation (contaminated land), Planning Statement, Design and Access Statement, a Landscape and Visual Impact Assessment and various ecological assessments to name some of those submitted. The EIA Report was considered to be comprehensive and does promote a wide suite of mitigation or enhancements that reduce the impact the development will have upon the locality.

Principle of development (NPF4 Policy 9, 29 and PP2 and DP5)

- 8.12 The applicants have sought to give a rationale for the development, making not only the business case for the development, but also in their planning statement and Design and Access statement they make clear that maturation of whisky goes hand in hand with its distillation and therefore the presence of maturation warehouses adjacent to distilleries is common place. Moray is home to almost 50% of Scotland's whisky distilleries, which contribute directly to both skilled employment and to the tourism sector.
- 8.13 National Planning Framework Framework 4 identifies Regional Spatial Priorities acknowledges distilling as a key economic sector for the north of Scotland and more generally Moray Local Development Plan 2020 supports local indigenous businesses such as whisky production.
- 8.14 Policy 9 states that development of Greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policy in the LDP. The proposed site is not allocated within the LDP however it is considered there is policy support for the proposal in the LDP. PP2 Sustainable Economic Development seeks to support the delivery of sustainable economic growth and support development where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated. The proposal is considered to meet this criteria and this is set out elsewhere within this report, see above. On that basis the proposals are considered to comply with Policy 9.
- 8.15 NPF4 Policy 29 seeks to support development proposals that contribute to the viability, sustainability and diversity of rural communities and the rural economy. This includes production and processing facilities for local produce and materials including food production. This proposed whisky maturation storage is considered to fall into this category of development and is therefore compliant with Policy 29.
- 8.16 MLDP policy PP2 Sustainable Economic Growth supports proposals which deliver sustainable economic growth where the natural and built environment is

safeguarded, there is clear locational need and any potential impacts can be satisfactorily mitigated.

- 8.17 Policy DP5 Business and Industry states proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need and is of a high standard of design appropriate to the rural environment. This proposal seeks to provide maturation warehousing close to the point of production and where demand for maturation warehousing due an upturn in the whisky demand globally.
- 8.18 Weight is also attached to the Moray Economic Strategy which supports the expansion of the whisky industry in Moray. The Moray Economic Strategy 2019-2029 acknowledges that Moray's smaller towns and villages have roles to play in the economic hierarchy, particularly in whisky distilling and tourism in Speyside.
- 8.19 While no new permanent jobs are to be created, the applicants have confirmed that the warehouses would further secure the employment of Glenrothes Distillery staff. Utilisation of existing maintenance equipment, vehicles etc can also be viewed as an efficient use of resources.

Locational justification

- 8.20 NPF4 policy 26 Business and Industry Development proposals for business, general industrial and storage and distribution uses outwith areas identified for those uses in the LDP will only be supported where it is demonstrated that there are no suitable alternatives allocated in the MLDP. While there are industrial or business designations within settlement that would be capable for accommodating storage buildings, no settlement statements designations are of a scale appropriate for hosting large whisky maturation warehouses, which are typically found in rural areas.
- 8.21 Policy PP2 Sustainable Economic Growth states that development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.
- 8.22 Policy DP5 Business and Industry, section g) extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.
- 8.23 The site sits within the Special Landscape Area (SLA) as designated within MLDP and addressed under policy EP3 Special Landscape Areas and Landscape Character. Section i) of the policy does allow distillery development within the SLA have a clear locational need and demonstrate that there is no alternative location.
- 8.24 The applicants have sought permission as there is a deficiency of whisky maturation in Moray. They state that due to increased output there existing

maturation facilities are at capacity the proposed warehousing is required as a direct consequence of the growth of whisky production with additional maturation space required to support Glenrothes Distillery and Macallan. Currently maturation facilities are at capacity and offer no opportunity for expansion.

- 8.25 The applicant has further advised that the nature and operational requirements of maturation warehousing is such that there are very specific locational requirements in terms of proximity to both Macallan and Glenrothes distilleries. The applicant has clarified that it is operationally inefficient and economically unviable for the whisky maturation process to take place in small warehouses across a range of locations. Additionally, this would also give rise to a greater number of vehicle movements and be less sustainable than developing adjacent to Glenrothes Distillery and nearby Macallan.
- 8.26 In seeking a well-drained, 50 hectare site that avoids environmental designations, they did consider alternative sites in Aberlour, Dufftown, within Rothes, Elgin and Forres, but none provided the space required for a development of this size or were already fragmented with other smaller developments. The site being the size proposed also allows for 15 hectares of landscaping and 3 suds basins and wide swales integrated into the layout.
- 8.27 The location is therefore considered acceptable and justified in relation to the above policies.

Placemaking, Siting and Design (NPF4 Policy 9, 14 and PP1, DP1, DP2)

- 8.28 NPF Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings promotes and encourages reuse of such land in order to reduce development on Greenfield land. As such, it creates a presumption against development on Greenfield sites unless the site is allocated for development or is explicitly supported by LDP Policies. The site whilst lying outwith the settlement boundary does incorporate a substantive operational area of the cask storage and handling (consented under 00/01226/FUL, see history section). This portion of the site can be classed as brownfield.
- 8.29 NPF4 Policy 14 Design, quality and Place. Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Placemaking is less pertinent given the functional and industrial nature of the site, which other than passers by on the footpath, will only be frequented by employees of the distillery for the most part. While function of the warehouses, with stacked whisky barrels is fairly standard, the proposed Filling Store and Disgorging Unit building and office/welfare building will have softer appearance with a curved trapezoidal roof, and colours differing from the warehouses themselves.

Landscape impact

- 8.30 The application has been supported by a thorough Landscape and Visual Impact Assessment, which has provided visualisations from key viewpoints (both with and without landscape screening) and maps showing the areas of

visibility in the locality of the development. This has allowed for a meaningful assessment of the visual impact of the development.

- 8.31 The site lying immediately outwith the settlement boundary occupies an elevated shoulder of land that would be largely obscured from view from the majority of the village. Of note in terms of topography, the landscape undulates and rises less quickly to the west of Ardcanney Farm, so the intervening tree planting would assist in breaking up the massing of the development.
- 8.32 Three residential properties on Manse Brae and visitors to the cemetery on the western edge of the village will have sight of the eastern most warehouses some 350m to the west. The development will also be visible to patrons of the golf course to the south for upper sections of the golf course when the look north across the Burn of Rothes ravine. The buildings would be several hundred metres away from the golf course. In terms of impact upon the nearest residential properties, there is considered to be sufficient separation between the proposal and these properties to ensure the development does not result in an overbearing impact and whilst the views from these properties may be affected, in planning terms, the right to a view is not a material planning consideration and therefore cannot be taken into account in determining this proposal. The applicant anticipates the planting will be around 8m to 10m in 10 years. Given the views of the site from the surrounding area it is accepted that the proposed landscaping will not fully screen the development but instead help to integrate more sensitively into the landscape.
- 8.33 The warehouse complex would be most noticeable some distance from the village for those visiting the summit of Ben Aigan to the east, which is a very popular walking route. There may be some views from below Ben Aigan on the Ardnilly road, where it has elevated views westward across the Spey. The development would still read however as part of Rothes where other whisky warehousing and the Forsyths buildings are already present, so it would not appear out of place in the Special Landscape Area bounding Rothes.

Landscaping mitigation

- 8.34 The intent is to carry out the tree planting work early in the project development, alongside groundworks associated with the development platforms. This will enable the altered landscape to stabilise and the planting to take root in advance of the more staggered development of warehouses over a 10 year period. Informed by the Landscape and Visual Impact Assessment the proposal will see the blocks of warehousing separated by substantive areas of tree planting. Once the landscaping has become established, the massing of the 10 warehouses will be meaningfully separated by the blocks of woodland. This is most pertinent to any views from the upper extents of the golf course, and from upland properties in the Glen of Rothes and on the slopes of Ben Aigan to the east.
- 8.35 Totalling approximately 15 hectares and amounting to in the region of 39,000 trees given the densities proposed, this should meaningfully assist to integrate the development into the landscape in time. Given the height of some of the tanks in the tank farm (15.5m at it's highest) and the warehouses at 14.6m the

trees would not fully enclose the development, but would substantively obscure all but the green roof tops in time.

Lighting

- 8.36 The EIA report states the intent to minimise lighting requirement and lighting pollution both at the construction phase and post development. The location of the warehousing means the lighting will not be seen from the A941, and the site sits secluded from the village itself. Where possible, the developer will seek to install motion activated lighting. Conditions are recommended to ensure the final position, design and orientation of lighting can be assessed. The EIA mitigation also during the construction phase seeks to minimise the impact on habitat from construction lighting, which is relevant given the intended duration of the construction phase.

Departure from settlement boundary policy

- 8.37 A departure from the MLDP settlement policy EP6 Settlement Boundaries occurs as the development site area, as applied for straddles the western settlement boundary of Rothes, nor is it a designated LONG designation outwith the settlement boundary that might be permissible. EP6 states that development proposals immediately outwith the boundaries of these settlements will not be acceptable, but in this case the distillery already has a substantive operational cask handling and storage area immediately outwith the settlement boundary that would be absorbed by the proposed development. The areas of the site within the site boundary, inclusive of the wooded ENV6 woodland designation would remain unaltered. The only works within the site boundary, within Rothes likely to occur would enhance works to Burnside Street.
- 8.38 The site is also obscured from the A941 and the majority of the village, so would not compromise its existing character. The proposal is therefore considered to be an acceptable departure from policy EP6.

Biodiversity and environment (NPF4 Policies 1, 3 and 4 and EP1, EP2, PP2, DP1)

- 8.39 NPF4 Policy 1 Tackling the climate and nature crisis and Policy 2 Climate mitigation and adaptation support development which addresses the global climate emergency and nature crisis, and minimises greenhouse gas emissions. NPF4 Policy 3 Biodiversity seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. NPF4 Policy 4 Natural Places has similar requirements to MLDP policy EP1 in terms of protecting designation integrity/interests and species. As the warehouses proposed would have very low levels of energy consumption, do not require to be heated or cooled and the only use of energy is related to the minimal levels of internal and external lighting is not considered that a decarbonising strategy is required. However, the proposed office building and the cask storage areas include photovoltaic panels and the office premises will utilise air source heat pumps to provide heating and cooling for this building.

8.40 EP2 Biodiversity requires all development where possible to retain, protect and enhance features of biological interest and provide for their appropriate management. The majority of the site is currently an agricultural field (not prime agricultural land) with small areas of woodland habitat across the site primarily on the edges undisturbed by the development. The proposed landscaping will increase the biodiversity value of the agricultural field through woodland planting. The applicant has proposed an additional 39,000 trees with a mixture of native broadleaves and conifers. This mix includes fruiting trees such as holly, hawthorn, blackthorn and hazel. In addition to this there will be a mixture of grassland types, such as a wetland meadow mix near SUDS infrastructure and swales and wildflower mix in other areas created. Several areas of woodland at the east end of the site around Ardcanny farm house are going to be retained also, to minimise felling. On that basis the proposals are considered to meet the requirements of EP2 Biodiversity.

Loss of woodland and departure from EP7

8.41 Proposals must retain healthy trees and incorporate them unless it is technically unfeasible to retain them. The applicant has provided supporting tree information which identifies the removal of 8 trees (a mixture of B, C and U categories). The removal of 3 of these is supported by policy as it is technically unfeasible to retain them. The remaining 5 included 3 category B trees are being removed as they sit on the footprint of the proposed warehouses contrary to policy EP7 Forestry, Woodland and Trees.

8.42 The proposal also necessitates the removal of 0.2 ha of woodland to accommodate vehicular and pedestrian access. This area of deciduous woodland bounds the existing narrow track up to Ardcanny farmhouse and needs to be removed to re-align the main roadway traveling up through the site with the track leading to two of the warehouses at the south west corner of the site. EP7 states that development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

8.43 The removal of the 5 trees and 0.2ha can be justified as an acceptable departure on the basis of the economic benefits associated with supporting the distilling industry as per PP2 Sustainable Economic Development and Policy 29 Rural Development. Furthermore, the applicant is proposing to plant 39,000 trees. The removal of 3 trees out of the 268 trees and 16 groups of trees surveyed and loss of 0.2ha woodland is considered minimal.

8.44 On that basis the proposals are considered an acceptable departure from EP7. It should be noted that further information is required to establish the type/number of trees being planted within each identified compartment in the landscaping plan and this can be dealt with by condition. Furthermore, the recommended actions identified within the Tree Constraints Survey Schedule are to be conditioned to ensure tree health in the event of approval.

Impact on amenity

- 8.45 Whilst the site itself occupies a relatively discreet position above the village, the development will be most evident (especially during construction) by increased activity on site. The proposed build out rate of one warehouse per year, will ensure that the volume of construction traffic and materials brought to the site is less intense than had no such phasing been proposed. Several conditions are recommended to control the timing of construction traffic, its movement on Burnside Street in addition to noise, vibration conditions during the construction phase. Once operational, the development should generate no more noise than the barrel laydown and storage area currently occupying the western edge of the site. It is acknowledged however that the applicant has said that some of the maturation will be used from whisky produced nearby at Macallan, so there will be an import of some barrels/tankers from that location.
- 8.46 On the premise that the storage will see produce from the Glenrothes distillery slowly populate the new warehouses on site, it is reasonable to acknowledge that less spirit would be leaving the site, previously bound for other maturation warehouses. This reduction in movement of spirit off-site over the decade or so it takes to stock the ten warehouses would then in time reach an equilibrium where matured whisky would then start to be removed from the site once fully matured. No controls are proposed regarding the movement of whisky from the warehouses, as this is dictated by factors such as market demand, demand for whisky of differing maturation period and other commercial factors. It is noted from representations that distillery traffic already arrives and leave the site at diverse times of day and night, and whilst this is outwith the scope of current application, it is hoped that the proposed improvement to Burnside Road might alleviate some of the existing issues. In the long term, warehouses would have limited impact upon the amenity of Rothes and would be located further from residences than many of the existing whisky distillery and warehousing currently within Rothes.
- 8.47 Access will also be maintained and ultimately diverted along a new route to protect public access through Ardcanney to the land and woodland to the west and south west.

Loss of agricultural land (NPF4 policy 5 and DP1)

- 8.48 NPF4 Policy 5 Soils considers the implications of new development on soils, inclusive of agricultural land where development on prime agricultural land will only be supported under particular circumstances. Whilst the applicant have gone to lengths to discuss the locational need for the warehousing it is noted that as the site is not host to prime agricultural land, the need for locational justification under policy 5b) is not a pre-requisite.
- 8.49 In terms of impact on Prime Agricultural Land, policy DP1 Development Principles section (iii) g) outlines that the proposals must avoid sterilising significant workable reserves of Prime Agricultural Land. In this case the proposals do not involve the loss of category 3.1 classification Prime Agricultural Land, with any agricultural land falling within the category of 3.2 or poorer. Of note the issue of prime agricultural land is discussed in the consultee's section where some high level national maps suggest the site is

partially designated by prime agricultural land where in fact more detailed mapping confirms that any prime agricultural land is confined to the valley floor east of Rothes and not on the upper slopes west of the village at Ardcanny. It is noted that with the Ardcanny having been derelict for some years now the fields relevant to this site have been used primarily as permanent pasture grazing rather than for crop production.

- 8.50 On this basis, the proposals do avoid prime agricultural land and comply with element of the above policies.

Pollution Control (NPF Policy 12 and DP1, EP14 and R1)

- 8.51 NPF policy 12 Zero Waste seeks to minimise waste and pollution.
- 8.52 Policies DP1 Development Principles and Policy EP14 Pollution, Contamination and Hazards seek to ensure that new developments do not create pollution which may adversely affect the environment or local amenity.
- 8.53 Conditions recommended seek a Construction Environmental Management Plan for the construction process, but it is not anticipated that the development would generate pollution post consent. There was a matter raised by representations questioning the impact on human health from the natural evaporation of ethanol that occurs as being a potential greenhouse gas, but the slow release of quantities and nature of its dispersal have not been a grounds for planning refusal to date. The Scottish Government are currently carrying out a study of the release of vapour ethanol “angel’s share” and its effects upon human health and the environment, and any conclusions of that may feed into future planning policy and guidance.

Drainage and Flood issues (NPF4 Policy 22 and PP3, DP1, EP12)

- 8.54 As part of the EIA Report, a Flood Risk Assessment and Drainage Impact Assessment were submitted.
- 8.55 NPF4 22 Flood Risk & Water Management seeks to strengthen resilience of development to flood risk through avoidance as a first principle, reducing the vulnerability of existing/future development to flooding, and advocates use of SUDs to ensure surface water does not increase flood risk to itself and others.
- 8.56 Policies PP3 Infrastructure and Services and DP1 Development Principles (iii) Water Environment, Pollution, Contamination require development to be planned and co-ordinated with infrastructure to ensure places function properly, and proposals are adequately served by infrastructure and services in terms of foul and surface water drainage and water supply. Policy EP12 Management and Enhancement of the Water Environment requires surface water from development to be dealt with in a sustainable manner (SuDS) that has a neutral effect on the risk of flooding or which reduces the risk of flooding, including temporary/construction phase SuDS.
- 8.57 A Drainage Impact Assessment and Flood Risk Assessment has been submitted with the application which details the proposed surface drainage arrangements for the proposed development. Three large SUDs basins are

proposed to the south west of the site and have been incorporated into a larger landscaped area. The SUDs basins will be edged with a wetland fringe planting scheme which will then be bounded by meadow areas and some areas of more managed grass surrounding the warehouses. Both SEPA and Moray Flood Risk Management are satisfied with the proposed surface water drainage arrangements. Wetland meadow species are proposed.

Access and Transportation (NPF4 Policy 13, 18 and PP3, DP1)

- 8.58 NPF4 Policy 13 Sustainable Transport has similar requirements and seeks to encourage, promote and facilitate development that prioritises sustainable travel. Policy 18 Infrastructure first to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of place-making.
- 8.59 Policies PP3 Infrastructure and Services and DP1 Development Principles require the provision of a safe entry/exit from new development, with appropriate infrastructure, parking, cycle parking and Electric Vehicle (EV) charging facilities.
- 8.60 Construction is indicated to be in five phases lasting 2-3 years each, over a total period of approximately 10 years.
- 8.61 The operation of the proposed bonded facility is expected to generate around 2-3 tanker movements each day prior to the Filling and Disgorging Unit (FSDU) becoming operational (c. 5-6 years after commencement of works) and this reduces to approximately 1 tanker movement each day after the FSDU is in place. Approximately 10% of the whisky being stored would originate from the Glenrothes Distillery with the remaining 90% coming from the Macallan Distillery by road. The estimated time to fill each warehouse is approximately 14 months. Transportation of the mature spirit from the site for bottling is anticipated to be from 2038. It is estimated that this would be undertaken by the same tanker after filling therefore no additional trips would be generated.
- 8.62 Excluding the construction period, the operation of the warehousing is estimated to increase traffic levels by around 2-3 HGV movements per day prior to the Filling and Disgorging Unit (FSDU) being completed and thereafter by around 1 HGV tanker movement per day. Additional car trips are estimated to be in the region of 6-7 vehicles per day.
- 8.63 A Transport Statement is submitted in support of the application. Survey data included indicates the existing traffic volumes on Burnside Street to be low with approx. 149 vehicle movements (0700-1900) in both directions of which approximately 16 are existing HGV movements. Approximately 65% of the existing total traffic on Burnside Street is estimated to be related to the distillery.
- 8.64 Junction testing of the Burnside Street/A941 priority junction and A941/Seafield Square signalised junction indicate that there are no existing capacity issues and that the junction should continue to operate within capacity once the development is fully operational.
- 8.65 A Road Safety Assessment of Burnside Street and the A941 junction was

submitted in support of the proposals. This highlights that the most significant impacts are likely to be during the construction phases. A number of issues are highlighted in this regard which need to be considered/addressed as part of a Construction Traffic Management Plan. This can be addressed via condition and otherwise there is no reason not to support the planning application.

Public Access

- 8.66 There is a public footpath running west from the end of Manse Brae which leads to the north east of the site into the woodlands bounding the Back Burn, and the track which leads west from the proposed site access, through Ardcanny Farm is publically accessible. The track then leads west into the open farmland and on toward Ardcanny woodland the ruin of property known as Brauchhill. To the south of the site and running past Glenrothes Distillery is corepath SP12. The applicants Design and Access Statement and Landscaping plan shows an informal diverted path along the southern edge of the site and going beyond the site edged red towards the Burn of Rothes ravine, where other existing paths exist.
- 8.67 The EIA Report Chapter 6 Landscape and Visual impact, refers to the phasing of the warehouse construction ensuring that the path network through or past the site is maintained across the various development phases. The intent at phase 4 is to bypass the current track leading to the Ardcanny farmhouse location (warehouses 6/8) with a path route to the south, leading through the woodland planting, which will westward to existing track leading to ruined property known as Brauchhill to the south west of the site. This path links into forestry tracks to the west. A condition is recommended to ensure that the proposed new path is provided timeously and is maintained.

Conclusion

Overall whilst the proposal will inevitably result in some visual impact, it does occupy a discrete location being out of site from almost all points within the settlement of Rothes. Taking all of the above factors into account, the site is considered to be well located to accommodate such a large development and balances the need to provide maturation storage facilities within Moray to enable the growth of the whisky industry with the need to protect the established character of the countryside in which the proposal is sited. Various development plan policies such as DP5 are supportive of extension to distillery operations which includes maturation. The applicant's proposals for substantive landscaping will further mitigate the visual impact of the development in time, and enhance the local habitat.

Full consideration was given to likely impacts upon Rothes residents, and particularly those on Burnside Street and Rothes itself. The proposed Construction Traffic Management Plan, limits upon hours of construction activity, improvements to Burnside Street and slower build out rate of warehouses at one per year over 10 years will not see an unacceptable impact on amenity or road safety.

REASON(S) FOR DECISION

The Council's reason(s) for making this decision (inclusive of EIA mitigation summary) are:-

The proposal accords with the relevant policies of National Planning Framework 4 but constituted a minor departure from several policies of the Moray Local Development Plan 2020. Departures from policy EP6 Settlement Boundaries and EP7 Forestry, Woodland and Trees were noted but on balance these did not attract such material planning weight as to constitute grounds to refuse the application. In light of existing distillery uses upon the east end of the site outwith the settlement boundary and the proposals to provide very substantive native tree planting across the site while removing a number of existing trees allows the departures to be treated as minor acceptable departures.

There were no material considerations that would indicate otherwise, preventing approval.

EIA Reasoning for decision

Moray Council's assessment of the information presented within the EIA Report and other environmental information in relation to the development is contained within the Report of Handling. It is considered that the development will not have any significant impacts on the environment. The Schedule of Environmental Commitments is comprehensive and significant environmental enhancements are proposed, such as the approximately 39,000 new trees that will be planted across the site.

Moray Council is satisfied that other effects/issues can be addressed by way of mitigation. A detailed description of the proposed mitigation is contained within the EIA Report and this Report of Handling.

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