

19/01085/APP
9th October 2019

Application under Section 42 to vary conditions 1-12, 14-16, 18, 20, 21, 23-25, 31, 32, 37, 38, 40, 41, 43-51, 53-58, 60- 62 and 65 of planning consent 17/00834/PPP to enable the development of different parts of the approved development within Area 1 through the phased submission of information relating to each phase for which development is sought and its necessary infrastructure. Elgin R11 Findrassie/Myreside Site And I8 Newfield Findrassie Elgin Moray for Pitgaveny Farms

Comments:

- A SITE VISIT has been carried out.
- Application is major development as defined under the Hierarchy Regulations 2009 for a development with more than 50 houses, and the site area exceeds 2ha.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- One representation received.
- Application 20/00183/S75 under consideration to modify existing agreement regarding planning obligations for Mixed Use Development at R11 Findrassie, Elgin, to apply to development pursuant to the current permission (17/00834/PPP) and this latest application (19/01085/APP).

Procedure:

- Delegated authority to Head of Economic Growth and Development to issue decision subject to no further representations being received following expiry of neighbour notification period; and
- Application 20/00183/S75 to modify existing agreement regarding planning obligations for Mixed Use Development at R11 Findrassie, Elgin to be determined and thereafter, await receipt of formal acknowledgement for recording of modified agreement prior to issue of planning permission.

Recommendation **Grant Planning Permission – subject to the following**

1. completion of modified legal agreement regarding planning obligations and adoption of “appropriate assessment” (Appendix 2) prior to issue; and
2. the following conditions:

Conditions/Reasons

- 1 The approval hereby granted is for planning permission in principle which includes approval of the accompanying phasing plan (Findrassie Masterplan - Area 1: phasing plan (March 2020)) for the whole site. Prior to the commencement of each phase of the development approval of matters specified in conditions including the siting, design and external appearance of all building(s)/structure(s), the means of access thereto, route(s) to school(s) including walking and cycling infrastructure required to be delivered with each phase, drainage and landscaping within that phase as identified in the approved phasing plan shall be obtained from the Council, as Planning Authority. Thereafter the development shall be brought forward in phases in accordance with the approved phasing plan, unless otherwise agreed in writing by the Council as Planning Authority.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement of development.

- 2 The planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with the approved phasing Plan permitted by Condition 1 and details including detailed drawings (and other supporting information) which shall previously have been submitted to and approved by the Council, as Planning Authority in line with the matters specified for that phase of development. These drawings shall show the matters specified in Conditions 3 - 7 below.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 3 Plans, sections and elevations of all proposed residential and non-residential buildings including commercial buildings/structures (including plant and machinery and/or other apparatus) within the phase of development for which details are to be submitted for approval, together with the proposed method of conversion and external alteration of any existing building(s) (for example, proposals at Myreside Farm to form a local community hub) with details of the type and colour of all external materials and finishes shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 4 The proposed layout of each phase for which details are to be submitted for approval showing the exact location and siting of all buildings/structures to be provided within all boundaries of that phase(s), the means of access, areas for vehicle and other parking, off-site infrastructure requirements for walking and cycling route(s) to school(s), and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 5 Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening of each phase for which details are to be submitted for approval shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 6 Sections through each phase for which details are to be submitted for approval showing the development of that phase on its finished levels in relation to existing levels shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 7 Landscaping proposals for each phase for which details are to be submitted for approval showing any existing trees/shrubs/hedges to be retained or removed together with details of the arrangement to protect retained plantings and the type, position and number of all new planting to be undertaken together with detailed specifications for all hard-surfaced landscape materials shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 8 In pursuance of Condition 3 above, the required details for each phase for which details are to be submitted for approval shall:

- a) provide for all (if any) buildings/structures within that phase, including, but not limited to, residential dwellings and non-residential/commercial premises including such premises to be located within the ground floor of buildings to be located along primary roads and/or at access to the site of the A941 Lossiemouth Road, to be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential) requirements) for all Character Zones within which the development hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan;
- b) be accompanied by a Design Statement for that phase, to describe and demonstrate compliance with design and site layout place-making principles and the principles and Design Codes for development as included within the Findrassie Masterplan (in accordance with Policy PP3 Place-making of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);

- c) include (in the cases of phases containing dwellinghouses) provision for a mix of residential housing types, sizes and tenures, and their integration with other uses within that and earlier approved phases of the development and with building designs, heights, streetscape, and palette of materials and colours to be used, etc. in accordance with the principles and Design Codes for development as included within the approved Supplementary Guidance: Findrassie Masterplan, etc.;
- d) provide (in the case of phases including dwellings) for 25% of the total number of dwellings within any application (house and flats/apartments, etc.) to be affordable housing, in accordance with details regarding the location, house mix and type, site layout arrangements, and timescale for the long- term management and delivery of such accommodation (in accordance with Policy H8 Affordable Housing of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);
- e) provide (in the case of phases including dwellings) for 10% of the total number of private dwellings (house and flats/apartments, etc.) within each application to be provided as accessible housing and built to wheelchair accessible standards with at least 50% of the wheelchair accessible dwellings to be delivered as single-storey dwellings with no accommodation in the upper floor/roof space, in accordance with details regarding the location, house mix and type, site layout arrangements and timescale for the delivery of accessible housing (in accordance with Policy H9 Accessible Housing of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);
- f) include design specifications (including location, external appearance and material finishes) for, and measures to mitigate the impact of, all plant and machinery, including air conditioning units, air source heat pumps, ventilation and extraction systems, etc. within that phase, whether free-standing or externally mounted/affixed to buildings/structures.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

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In pursuance of Condition 4 above, for each phase for which details are to be submitted for approval the required details shall:

- a) in terms of the siting and disposition of all buildings/structures within that phase and other features including provision for transportation (all modes), drainage, open space and landscaping:
 - i. the development shall be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential) requirements) for all Character Zones within which the development hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan;
 - ii. be accompanied by a Design Statement for that phase to describe and demonstrate compliance with design and site layout place-making principles and the principles and Design Codes for development as included within the Findrassie Masterplan (in accordance with Policy PP3 Place-making of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved). The Statement shall also address how the siting and design arrangements have been informed by the contextual analysis of the site and its surroundings, including how the design fits within the landscape framework and urban structure of the development (Findrassie Masterplan refers) and Policy PP3 Place-making of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);
 - iii. where they are relevant to the phase of development applied for, include location and design specifications for
 - the location of all residential and non-residential including commercial development(s) to be provided,
 - the local community hub;
 - the primary school (a serviced 2.5ha site) together with playing fields and associated community facilities;
 - all proposed areas of open space taking account of the quality and quantity requirements for new open, in this case

a minimum of 30% open space to be provided in accordance with Policy E5 Open Spaces and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);

- all proposed play areas to be provided, including specifications for play equipment;
- all proposed areas for allotments, including boundary enclosure and site layout and any standard of buildings to be provided;
- the proposed amphitheatre, including site sections relating to the formation of this feature;
- all sports pitches and proposed changing accommodation;
- the primary school;
- the siting of all waste storage, recycling and collections systems;
- all areas for landscaping, including advance landscaping and enclosing tree belts; and
- the siting of all development including proximity of development to, flood event levels, watercourses and existing electricity substation shall be in accordance with the requirements of Conditions 39, 40 and 53;

b) in terms of means of access and parking:

- i. provide for the phase of development to be accessed (by all transport modes) from the A941 Lossiemouth Road and/or, the U24E Covesea Road and/or the unclassified Myreside Road in accordance with the requirements of Conditions 16 - 25;
- ii. provide for the internal transport network arrangements for road, footpath and cycle networks within that phase to be provided in accordance with Moray Council specifications and the access strategy, movement and connectivity principles including regard to street structure and types (hierarchy) as incorporated within the Findrassie Masterplan, and in accordance with Conditions 25 - 29 and 31; and
- iii. provide for all parking arrangements within that phase to be in accordance with Moray Council standards and in accordance with

the principles for parking as included in the Findrassie Masterplan, and in accordance with Condition 30;

- c) in terms of drainage:
- i. provide for a public foul sewer connection for that phase of development in accordance with Condition 37; and
 - ii. provide for the disposal of surface water using SUDs during both operational and construction stages of that phase of the development in accordance with Condition 38.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

10 In pursuance of Condition 5 above, the required details to be submitted for each phase of development shall:

- provide for the location, design specifications and material finishes for all boundary treatments and means of enclosure to be provided within that phase of the development; and
- include a mix of boundary treatments, to be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential requirements) for all Character Zones within which the development hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

11 In pursuance of Condition 6 above, the required details to be submitted for each phase of the development shall:

- include all earth engineering including excavation, mounding and moulding operations, including cut and fill operations required to accommodate that phase of the development; and
- relate existing and finished (floor and/or ground) levels for that phase of the development to a fixed datum and the setting of that phase of development shall take account of the siting and setting requirements identified within Conditions 39, 40 and 53.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character,

appearance and amenity of the development and the surrounding area.

12 In pursuance of Condition 7 above, the required details to be submitted for each phase of the development shall:

- include a landscape scheme for hard and soft landscaping to be provided within that phase. For the former the scheme shall including the location, design specifications and colouration of all hard surfaced landscaping to be provided for soft landscaping, the scheme shall identify all planting to be retained or removed and all new planting together with the timescale and maintenance arrangements for all planting in accordance with Condition 41 and 42; and
- be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential requirements) for Character Zones within which the development as hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan and, as required by the Findrassie Masterplan, the scheme shall demonstrate how that phase of the development has been informed by the landscape framework therein; and

For phases P1, P2 and P3 and phases AP-W and AP-N an application for approval of matters pertaining to conditions 7, 41 and 42 shall be submitted to the Council, as planning authority prior to the completion of the 25th residential unit, and approved in writing by the Council, as planning authority prior to completion of the 100th residential unit.

For phase AP-E an application for approval of matters pertaining to conditions 7, 41 and 42 shall be submitted to the Council, as planning authority prior to the completion of the 25th residential unit, and approved in writing by the Council, as planning authority prior to completion of the 35th residential unit.

These applications shall include timescales for the provision of planting/seeding and open space within each phase on a pro rata basis in stages, based on the number of completed residential units. Once approved the landscape scheme shall be implemented strictly in accordance with the approved timescales unless otherwise agreed and in any event, planting/seeding of the areas identified shall be carried out no later than:

- P1 and P2, in accordance with the agreed timescales in stages prior to completion of the 175th, 350th and 500th residential unit; and for P3 prior to completion of the primary school site
- AP-E (adjacent to Lossiemouth Road) prior to completion of the 50th residential unit or by bare root planting season 2021/2022 (October 2020/ March 2021); and for AP-E (adjacent to the Elgin Substation) prior to commencement of development on phase E3
- AP-W prior to completion of the 150th residential unit or by bare root planting season 2022/23 (October 2022/ March 2023) or prior to the approval of an application for development on part or the whole of blocks D1-D4 (inclusive), whichever comes first

- AP-N prior to completion of the 265th residential unit or by bare root planting season 2024/25 (October 2024/ March 2025), or prior to the approval of an application for development on part or whole of blocks W1-W3 (inclusive) and N1-N9 (inclusive), whichever comes first

All maintenance arrangements which form part of the approved landscaping scheme as agreed shall be strictly adhered to.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

- 13 In pursuance of Conditions 2 - 7, the requirements of all Conditions 14 - 65 as included below shall also apply to the development as hereby approved.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

- 14 Notwithstanding the provisions of the Town & Country Planning (Use Classes) (Scotland) Order 1997 (or any Order revoking or re-enacting that Order), the permission relates solely to the development being provided in accordance with the uses and Use Classes as stated within the formal description of the application and for no other use or purpose without the prior written approval of the Council, as Planning Authority. The permission hereby granted is solely for a development not exceeding 500 dwellings (houses and/or flat/apartments) and all use Class 1 (shop) uses including proposed facilities at the local community hub and at locations identified within the Findrassie Masterplan shall demonstrate that the nature of such retail activity is, at all times, in accordance with Policy R3 of the Moray Local Development Plan 2015 and the associated Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved.

Reason: To ensure an acceptable form of development in accordance with the submitted particulars and to retain control over the identified uses as specified within the development including consideration of the effects and impacts of uses other than those hereby approved.

- 15 No more than 350 dwellings shall be occupied until:

- i) details (which may include evidence from Transport Scotland) have been submitted to and approved by the Council as Planning Authority to confirm that the Trunk Roads Authority has completed the upgrading and realignment of the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme; or

- ii) the works to the A96 East Road/Maisondieu Road/Pansport Road roundabout have been implemented generally in accordance with Goodson Associates Drawing reference P13779 SK001; or
- iii) a Transport Assessment or Addendum Report has been submitted to the Planning Authority and that any trunk road mitigation measures necessary to offset the impact of the area have thereafter been implemented in accordance with a timescale identified by the Transport Assessment to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale and operation of the proposed development beyond 350 dwellings does not adversely affect the safe and efficient operation of the A96 trunk road network.

16 No development shall commence on any phase of the development until the following has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority and where appropriate, the Head of Housing & Property:

- i) drawing(s) (scale 1:1000 minimum) showing the position of bus stops and 400 metre walking isochrones which cover all areas of that phase of the development and the A941 and Covesea Road;
- ii) drawing(s) (scale 1:500 minimum) showing:
 - a) positions of bus lay-bys on the A941 and bus stop infrastructure (shelters and flags) and/or bus stops on Covesea Road, where they fall within the 400 metre walking isochrones for that phase; and bus stop infrastructure (shelters and flags) within the development;
 - b) widening of bends on all bus routes to enable buses to pass each other without conflict;
- iii) timescales for the delivery of all bus stop infrastructure proposed for that phase of the development and on the A941 and Covesea Road where required for the development of that phase; and
- iv) evidence of a written agreement with local bus operators for the provision of bus services to serve that phase, including the extension/enhancement of existing bus services and/or the provision of new dedicated bus services to provide a minimum level of service operating from 7.00am to 6.00pm at a half hourly frequency, Monday to Friday inclusive, and from 8.00am to 6.00pm at an hourly service on Saturday, for a minimum duration of two years. Thereafter, the bus stops, bus lay-by, bus infrastructure and bus services shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the satisfactory provision of public transport infrastructure

to serve the development.

- 17 Prior to the commencement of any part of the development accessed from the A941 Elgin to Lossiemouth Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of the southern access to the development on the A941 including the proposed design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development access, bus laybys and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

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

- 18 Prior to the commencement of the 50th unit accessed from the A941 Elgin to Lossiemouth Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of the northern access to the development on the A941 including the proposed design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development access, bus laybys and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

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

- 19 No development shall commence on more than 50 housing units which are accessed from the A941 Elgin - Lossiemouth Road, until a second point of access and/or a route to enable an emergency access for use by all emergency vehicles, pedestrians and cyclists has been provided.

Reason: To ensure an acceptable alternative means of access to the development, including for the emergency services.

- 20 Prior to the commencement of any phase of the development accessed from the C24E Covesea Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of all proposed accesses to the development on the C24E Covesea Road within that phase of development, including the proposed

design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed accesses and any other works proposed on Covesea Road e.g. bus stops and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development accesses, bus stops and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

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

- 21 Prior to the commencement of any part of the development taking vehicular access from the C24E Covesea Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for the upgrading of the C24E Covesea Road within the development to a 'Primary Route' with dedicated facilities for pedestrians/cyclists on both sides of the carriageway (at least one 3m cycleway) including the proposed design speed and details of the specifications for the widening, provision of roads drainage and re-construction of the existing carriageway. The design details shall be informed by a Stage 1/2 Road Safety Audit for the road improvements and any other works proposed on Covesea Road e.g. bus stops and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the upgrading of the road shall be provided in accordance with the approved details and agreed timescales.

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

- 22 No development shall commence on more than 50 housing units which are accessed from the C24E Covesea Road, until a second point of access, onto the C24E Covesea Road and/or Greenfield Wynd, and/or a route to enable an emergency access for use by all emergency vehicles, pedestrians and cyclists has been provided.

Reason: To ensure an acceptable alternative means of access to the development, including for the emergency services.

- 23 Prior to the operation of the northern access, as detailed in condition 18 of this decision notice, a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show:

- i) the modifications to the A941/Myreside Road junction, design specifications and timescale for delivery of the junction modification to prevent vehicular access from the A941 onto Myreside Road;

- ii) the proposed design for restricting vehicular access at the western end of Myreside Road; and
- iii) written evidence to confirm that a Road Traffic Regulation Order has been secured to remove rights of access for motorised vehicles on the section of Myreside Road between the A941 and Myreside Farm Cottage.

Thereafter, unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority, the modification to the junction and the vehicular access arrangements shall be provided in accordance with the approved details and agreed timescales.

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

- 24 Prior to the commencement of any part of the development (other than within phases E1, E2, E3, E4), as set out in the approved Findrassie Masterplan (2015) detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for the upgrading of the U39E Myreside Road within the development to a 'Primary Route' with dedicated facilities for pedestrians/ cyclists on both sides of the carriageway (at least one 3m cycleway) including the proposed design speed and details of the specifications for the widening, provision of roads drainage and re-construction of the existing carriageway. The design details shall be informed by a Stage 1/2 Road Safety Audit (RSA) for the road improvements and any other works proposed on Myreside Road e.g. bus stops and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the upgrading of the road shall be provided in accordance with the approved details and agreed timescales

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

- 25 Prior to the commencement of any phase of the development, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery for the internal road network, including proposals for footways, cycleways, pedestrian/cycle crossing facilities, bus infrastructure, boundary treatments, and shared parking areas within that phase of the development. The design details shall be informed by a Stage 1/2 Road Safety Audit (RSA) for the proposed road network and any other works proposed e.g. pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the internal road network shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure acceptable infrastructure within the development to cater for movements by foot, including ambulant disabled persons, cycle, vehicle and public transport.

- 26 No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway, measured from the level of the public carriageway, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

- 27 No walls or any other obstruction whatsoever over 0.6m measured from the level of the public carriageway shall be permitted within any 'forward visibility' areas or any visibility splays crossing plot boundaries within all areas of the residential development, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

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

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

- 29 Houses requiring 2 parking spaces shall have a driveway length of 6.0m minimum in front of any garage to permit a second car to park, unless alternative parking arrangements are provided. No part of the driveway shall be included in the public road.

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.

- 30 Parking provision shall be provided and made available for use at all times to the Moray Council Parking Standards for each class of development use together with provision for secure cycle parking and facilities for electric vehicle charging. The standards for parking as applied at the time of any application for development shall be in accordance with Policy T5 Parking Standards of the Moray Local Development Plan 2015 and any associated guidance setting out the standards of parking including any equivalent planning policy and/or guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved.

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

- 31
- a) Prior to the commencement of any part of the development, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority, and Moray Access Manager:
- i) in accordance with Supplementary Guidance: Findrassie Masterplan principles to enhance connectivity between the proposed and existing development to the south,
- detailed drawings (scale 1:500 minimum) for that phase of development showing the location, design specifications and timescale for the provision of active travel corridors and connections between the development and Elgin Core Paths EG31 and EG33; and
 - drawings (scale 1:1000 minimum) showing an indicative network of active travel corridors including that phase of development and the remaining phases and connections to the existing/committed network in accordance with the principles set out in the Supplementary Guidance: Findrassie Masterplan.
- b) Prior to the completion of any residential or non-residential building within any phase of development, other than within phases E1 and E2, as set out in the approved Findrassie Masterplan (2015), the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority, and Moray Access Manager:
- i) detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of a cycleway connection alongside Covesea Road to the south of the development, linking to the existing cycleway or other cycle link to Moray Council adoption standards to provide a continuous adopted cycle route from the development to Sey Burn Wynd and Myreside Circle and extending to the existing remote cycle track at the Lossiemouth Road/Covesea Road junction.

Thereafter, the proposed foot and cycle connections, crossings and corridors shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access routes for pedestrians and cyclists both within and to/from the development, in the interest of road safety.

- 32
- No works shall commence on any phase of the development until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding:

- a) A Construction Traffic Management Plan which shall include the following information:
- duration of works;
 - construction programme;
 - number of vehicle movements (i.e. materials, plant, staff, components);
 - anticipated schedule for delivery of materials and plant;
 - full details of construction traffic routes from the Strategic Road Network (A941/A96) to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
 - measures to be put in place to prevent material being deposited on the public road;
 - measures to be put in place to safeguard the movements of pedestrians;
 - traffic management measures to be put in place during works including any specific instructions to drivers; and
 - parking provision, loading and unloading areas for construction traffic.

and

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

Thereafter, the development of that phase(s) 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, road safety and the amenity of the area/adjacent properties.

- 33 Prior to the commencement of any part of the development, a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of improvements to the capacity of the Morriston Road/Duffus Road junction (to 'no net detriment') through the provision of 'ghost island' right turn facility or introduction of traffic signal control, including proposals for pedestrian crossing and cycling facilities.

The design shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction improvement and any other works proposed e.g. pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the Morriston Road/Duffus Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 34 Prior to the commencement of any part of the development, details shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority with drawings, based on a topographical survey (scale 1:500) to show the location, design and specifications, of works to improve the operation and capacity at the North Street/Morriston Road traffic signal controlled junction (to 'no net detriment'), including proposals for pedestrian crossing and cycle facilities. The design shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction improvement and any other works proposed e.g. pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 35 Prior to the commencement of the 50th dwelling (house and/or flat/apartment) OR prior to the commencement of any non-residential, including commercial development but excluding the proposed primary school and local community 'hub', the following shall be provided:

- i) written evidence to demonstrate control of the land through ownership or legal agreement to deliver the junction improvements at North Street/Morriston Road (Condition 34); and
- ii) written details of the timescale for delivery of junction improvements at North Street/Morriston Road.

Thereafter, and prior to the commencement of the 100th dwelling (house and/or flat/apartment) OR prior to the commencement of any non- residential, including commercial development but excluding the proposed primary school and local community 'hub', the North Street/Morrison Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 36 Prior to the commencement of any part of the development, a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of improvements to the capacity of the Covesea Road/Lossiemouth Road junction (to 'no net detriment') through the provision of traffic signal control, including proposals for pedestrian crossing and cycle facilities.

The design shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction improvement and any other works proposed e.g. pedestrian crossings and the Road Safety Audit shall be included as part of the required details.

Thereafter, the Covesea Road/Lossiemouth Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 37 No development on any phase of the development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with Scottish Water, SEPA and Moray Flood Risk Management where appropriate regarding a finalised foul drainage scheme for that phase of the development. The Scheme for each phase shall:

- a) provide for connection to the public foul drainage sewer network;
- b) be developed and designed in accordance with the submitted Drainage Assessment and Flood Risk Assessment;
- c) identify the location(s) and route(s) and time-scale(s) for the provision of all foul drainage infrastructure for that phase including pumping stations and pipework both within the site, and between the site and the proposed point of connection to the foul drainage network;
- d) include the location, design specifications, external appearance and material finishes, and site layout arrangements including hardstanding areas and means of access to above ground buildings/structures or

other apparatus to be provided within the phase(s) on which such pumping stations will be located as part of any required/proposed pumping station to be provided; and

- e) confirm the adopting authority or in perpetuity body for the foul drainage network.

Thereafter, the phase of development shall be provided in accordance with the approved foul drainage scheme details and connection to the public foul drainage sewer network shall be provided and made available for use prior to first occupation of the development unless temporary arrangements are agreed in writing with the Council, as Planning Authority in consultation with Scottish Water and SEPA.

Reason: To ensure an acceptable form of development in terms of the provision and delivery of foul drainage infrastructure for the development.

38 No development shall commence on any phase until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA and Moray Flood Risk Management and Scottish Water where appropriate regarding:

- a) a finalised surface water drainage scheme for the operation of that phase of the development. The Scheme shall include details of all sustainable (SUDs-based) drainage features to be provided within that phase including details of the location, design construction specifications, level(s) of treatment, supporting calculations and time-scale(s) for provision and maintenance of all (sustainable) surface water features, including roads drainage to be incorporated into the site layout and:
 - i) be developed and designed in accordance with the surface water design strategy as outlined in the submitted Drainage Assessment and Flood Risk Assessment (May 2017) together with technical guidance and requirements contained in The SUDs Manual (by CIRIA, C753), Sewers for Scotland 3 and SEPA guidance, Regulatory Method (WAT-RM-08) Sustainable Urban Drainage Systems (SUDS or SUD Systems)";
 - ii) be designed to manage storm water flows for storm events up to and including a 1 in 200-year flood event with surface water to be discharged after on-site attenuation at a controlled rate, not exceeding the greenfield run-off rate;
 - iii) include a site plan showing the proposed SUDS treatment train together with submission of Simple Index Approach calculations and, a detailed risk assessment where development has a high pollution hazard level;
 - iv) include information to demonstrate that no existing natural water

bodies, for example Myreside Pond will be used as SUDS;

- v) include cross- and long- sections to confirm the area and depth of all required/proposed SUDS basin(s) or other sustainable drainage features where proposed, with finished levels related to existing ground levels and a fixed datum;
- vi) include details to manage and mitigate any overland flows in the event of flood events or drainage failure in excess of the capacity of the SUDs design/installed drainage network and ensure that such flows are not directed towards existing or proposed development;
- vii) where the development area is sub-divided into separate parcels for development, address the integration of those separate parcels into the overall surface water drainage scheme arrangements for the development; and
- viii) confirm the adopting authority/authorities or in perpetuity body/bodies for all surface water drainage arrangements;

and

- b) a construction surface water management plan, to include the location, design specifications and time-scale(s) for provision 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 of that phase shall be implemented in accordance with the approved surface water drainage scheme details and all approved surface water drainage arrangements shall be provided and made operational prior to first use and occupation of that phase of the development

Reason: Details of the matters specified are insufficient (being based on an outline drainage and SUDS strategy) and/or are lacking from the submitted particulars and ensure an acceptable (and sustainable) form of development is provided and maintained and to provide for adequate protection from surface water run-off both during the operational and construction stages of the development.

39 As part of the proposed development:

- no development, or land raising, shall take place within the 1 in 200-year flood extent as shown in drawing 8246_401 Rev D as included in the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar);

- finished floor levels shall be set 1m above the relevant 1 in 200-year flood level as shown in Appendix A, Addendum 1 of the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar);
- for school development (and other most vulnerable land uses), finished floor levels shall be set 1m above the relevant 1 in 1000-year flood level as shown in Appendix C, Addendum 1 of the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar); and
- For development in the vicinity of the culverts, finished floor levels should be set 1m above the relevant culvert blockage flood level as shown in Appendix E and G, Addendum 1 of the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar). Reason: To protect people and property from flood risk in line with Scottish Planning Policy.

40

No development shall commence on any phase of the development until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA regarding all proposed engineering activities to be undertaken within any part of the water environment as part of that phase. The details shall include:

- i) the location, and type including design specifications and timescales for all proposed engineering activities including watercourse crossings to be undertaken within the water environment and any cumulative impacts that may arise from development of other phases within this PPP;
- ii) a systematic table providing a detailed justification for each and all proposed engineering activities and identifying all measures to mitigate any adverse impact arising from such activity; and
- iii) all proposed watercourse crossings shall be designed to accept the 1 in 200-year flow.

Thereafter, the development shall be implemented in accordance with the approved water engineering activities.

Reason: To ensure adequate protection of the water environment.

41

No development shall commence on any phase of the development until details have been submitted to and approved by the Council, as Planning Authority regarding a detailed landscape scheme for that phase of the development. The scheme shall:

- a) identify the location of all existing trees/shrubs and hedgerows or other landscape features within that phase and identify those to be retained and those to be removed. The details shall address the implications of all required/proposed drainage and transportation infrastructure associated with that phase of the development. Applications for development of phasing zones P1 and P2 as set out in the approved Findrassie Masterplan (2015) should provide for the retention of the existing woodland created adjacent to Myreside Pond (and its incorporation into the open space area to be provided within the Hub + Central Open Space Character Zone within these phasing zones);
- b) include details of measures to protect existing trees, shrubs and hedgerows and other landscape features to be retained within that phase, before during and after construction activity;
- c) include details of the number, species, position, planting distances and sizes of all trees, shrubs and hedgerow planting to be provided within the site. All proposed planting details and specifications shall provide for the use of native species of local provenance. The scheme shall include all proposed areas of advance planting (including avenue/boulevard planting and enclosing woodland/tree belt planting areas located within the Lossiemouth Road, Employment, Sub-station, Duffus Road, Findrassie Woodland Edge and Northern Edge Character Zones, where applicable to that phase, in so far as such landscape planting is proposed as part of the development as hereby granted together with all planting proposed within residential areas including play and open space areas within that phase in accordance with the Supplementary Guidance: Findrassie Masterplan;
- d) include details of the time-scale(s) for all proposed planting included within that phase of the scheme;
- e) include details of a management plan for the maintenance of all planting; and
- f) for all areas where earth moving, mounding and excavation is required/ proposed to form landscape and open space features, for example the amphitheatre within the central open space area or earth bund to enclose the sub-station (Condition 53), the scheme shall include details regarding the timescale for provision and location and design specifications, including cross and long-sections to describe the extent, area and height/depth of any proposed or resultant landscape feature with finished levels related to existing ground levels and a fixed datum.

Thereafter, the development of each phase shall be implemented in

accordance with the approved landscape scheme details and maintained in accordance with the maintenance plan

Reason: Details of matters specified are lacking from the submitted particulars and ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

42 In relation to the approved landscape scheme for the development, all trees shrubs and hedge planting 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, numbers and species unless with the prior written consent of the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the character, appearance and amenity of the development and the surrounding area.

43 No development shall commence on any phase of the development until a written statement has been submitted to and approved by the Council, as Planning Authority in consultation with SNH and others where appropriate to describe and confirm all measures to mitigate the impact of that phase of the development upon the integrity of the internationally and nationally important Loch Spynie Special Protection Area, Ramsar site and Site of Special Scientific Interest. The statement details shall confirm all proposed mitigation measures to address:

- water quality and quantity during construction of the development of that phase;
- water quality and quantity during the operational life of the development of that phase; and
- water quality during any river engineering works associated with the development of that phase.

Thereafter, the development of that phase shall be implemented in accordance with the submitted statement details.

Reason: Details of the matters specified are lacking from this "in principle" application and to ensure the international and national status and integrity of Loch Spynie is not adversely affected by the development.

44 No development of any phase shall commence until the following have been submitted to and approved by the Council, as Planning Authority in consultation with SNH regarding:

- a) details to confirm the arrangements to undertake pre-construction surveys for all protected species recorded as using that phase of the site, to include the time-scale(s) for undertaking surveys and thereafter, the arrangements for reporting the results of the survey. Where any survey identifies protected species using that phase of the site, the survey results shall also identify all required/proposed measures to be implemented to mitigate the impact of the development upon any identified protected species;
- b) the arrangements to undertake watching briefs for protected species during construction works together with the procedures to be adopted to mitigate the protected species where encountered during construction works; and
- c) details to confirm all required/proposed measures to mitigate the impact of the development of that phase upon bat species.

Thereafter, the development shall be implemented in accordance with the approved protected species details including mitigation measures.

Reason: To ensure an acceptable form of development taking into account the need to afford protection to all protected species recorded as using the site, and in accordance with mitigation measures intimated within the submitted Ecological Appraisal (for Findrassie, 30/05/2017, by Neo Environmental).

45

No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) for each phasing zone as set out in The approved Findrassie Masterplan (2015) has been submitted to and approved by the Council, as Planning Authority in consultation with SEPA, SNH and other agencies where appropriate. The CEMP shall 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) showing the location of construction management features and, in addressing all pollution prevention and environmental management issues related to the development (including construction method, surface water and site waste management). The CEMP shall include the following information:

- a) a list of all construction activities that will be undertaken and the sequence of these, for example ground stripping;
- b) information to demonstrate that ground conditions are suitable for the temporary construction SUDS chosen. Confirmation shall be provided that the temporary construction SUDS are appropriately located in terms of the topography of the site. All SUDS shall be specifically designed for the purposes of construction and separately for final phase SUDS;

- c) the timing of the works, e.g. heavy construction works to be staged to avoid periods of heavy rainfall;
- d) environmental management structure including a hierarchy and contact details for responsible persons on site;
- e) details of how the environmental obligations of the site will be communicated to staff carrying out the works (e.g. delivery of toolbox talks), etc.;
- f) details of emergency procedures/pollution response plans in the event of a pollution event (particularly silt pollution prevention/discovery of silty water);
- g) provisions for pollution response plans in the event of an out of hours or weekend incident;
- h) SEPA's pollution hotline number 0800 80 70 60 should be included for the reporting of any environmental events;
- i) fuel and chemical storage provisions;
- j) identify any existing field drains as, if intercepted, this could provide a preferential pathway for contaminated run-off water;
- k) details of waste management, in the form of a site waste management plan which shall include information such as: Who will be responsible for the resource management, what types of waste will be generated, how the waste will be managed, how it will be reduced, reused or recycled, which contractors will be used to ensure the waste is correctly recycled or disposed of responsibly and legally, and how the quantity of waste generated by the project will be measured (with further information available in SEPA's document "A simple guide to Site Waste Management Plans");
- l) soil storage locations, concrete wash out areas, wheel wash stations;
- m) arrangements to mark out appropriately sized buffer strips around watercourses on/adjacent to the site and other sensitive features or appropriate mitigation proposed to protect these features;
- n) the principles of any relevant SEPA Guidance for Pollution Prevention shall be incorporated into the method statement rather than just referenced and supported by drawings showing the location of the above features; and

- o) in accordance with the Ecological Appraisal (for Findrassie, 30/05/2017, by Neo Environmental), confirm the details of all proposed/required measures to mitigate potential impacts on local ecological receptors during the construction period.

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

Reason: To minimise the impacts of the development works upon the environment.

46

No development on any phase shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA to demonstrate that there are no private water supplies within 250m of the phase. The required details shall include:

- a) a map demonstrating that all existing groundwater abstractions are outwith a 100m radius of all excavations shallower than 1m, and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. (The survey information shall extend beyond the application site boundary where required to satisfy the specified radius distance); and
- b) if the minimum buffers are not achieved, a detailed site specific qualitative and/or quantitative risk assessment shall be submitted to identify and describe all required/proposed measures to mitigate the impact and effect of the development upon any existing groundwater abstraction source.

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

Reason: To minimise the impacts of the development works upon the environment.

47

No development of any phase of the development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA regarding a schedule to identify all required/proposed "green" measures that will be implemented on that phase of the site, including a drawing demonstrating the 10m buffer between any watercourse and the development together with the outcomes of investigation and details (location, design specification and timescale(s) for provision) of all proposed measures to be provided on the site including, for example, use of green roofs, rain water harvesting/sustainable water use measures, arrangements for re-naturalising/re-meandering of any water features within the site, etc.

Thereafter, the development of that phase shall be implemented in accordance with the approved green measures.

Reason: To ensure an acceptable form of development in accordance with the provisions of the approved Findrassie Masterplan and to ensure adequate protection of the water environment whilst contributing to and enhancing the natural environment.

48

No development on any phase shall commence until a Sustainability Statement for that phase has been submitted to and approved by the Council, as Planning Authority to identify all required/proposed measures to be incorporated into the development to address objectives contributing to reduction of greenhouse gas emissions. The Statement shall include a Sustainability Checklist in accordance with Policy PP2 Climate Change and associated Supplementary Guidance: Climate Change of the Moray Local Plan 2015 and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved).

Thereafter, the development of that phase shall be implemented in accordance with the approved sustainability measures identified in the required statement.

Reason: To ensure an acceptable form of development in accordance with sustainability objectives for development at Findrassie.

49

No development on any phase shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA to establish and demonstrate the potential or otherwise for district heating on that phase, to be met through connection to an existing district heating network or implementation of an on-site district heating network. Unless otherwise demonstrated through a feasibility study, the required details shall provide for:

- a) the inclusion of infrastructure (such as pipelines) within that phase of the site to enable connection to any district heating scheme/combined heat and power plant in the vicinity (and the subsequent requirement to connect when available) or;
- b) the safeguarding of land within that phase of the development for the future installation of infrastructure to enable connection to any district heating scheme/combined heat and power plant for the overall masterplan site (and the subsequent requirement to install such infrastructure and connect when available).

Reason: To demonstrate the consideration given to Scottish Planning Policy (2014) to include infrastructure to make best use of available local resources.

50

In respect of possible land contamination on the site, unless otherwise

agreed in writing with Moray Council as Planning Authority, no development works on any phase of the development, other than those required to facilitate assessment and remediation of contamination, shall commence until the following have been carried out:

- i) full details of the methodology for assessment of land contamination at that phase of the site have been submitted to and accepted in writing by Moray Council, as Planning Authority;
- ii) the assessment works for that phase have been completed in full in accordance with the agreed details and a report submitted to and accepted in writing by Moray Council, as Planning Authority;
- iii) in the event that the assessment identifies the need for remediation or mitigation measures to ensure the suitability of that phase of the site for the proposed use, full details of the remediation methodology, including proposals for validation works, have been submitted to and accepted in writing by Moray Council, as Planning Authority; thereafter these works will be implemented in full in accordance with the agreed details;
- iv) a full validation report has been submitted to and accepted in writing by Moray Council, as Planning Authority, which demonstrates that no pollutant linkages remain or are likely to occur.

Should any previously undiscovered contamination be encountered during the development of the site, then all works shall cease, and the Council, as Planning Authority should be contacted immediately to agree an appropriate course of action.

Reason: To safeguard the health and safety of the occupants of the properties, the building structures and the local environment from the effects of harmful ground contamination.

51

No phase of 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 for that phase 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 occupied 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. The PERD can be undertaken in line with the phases of development.

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

52

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 Saturday 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 and where so demonstrated that operational constraints require limited periods of construction works to be undertaken outwith the permitted/stated hours of working.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

53

No phase of 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 an updated noise impact assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN), in order to consider the amenity of future residential properties within that phase, in proximity to the existing Elgin sub-station. The assessment findings shall be reported in terms of BS 4142: 2014 Methods for rating and assessing industrial and commercial sound, Noise Rating Curves (NR 20) for night-time, and NANR 45 night-time criteria. The measures to mitigate the impact of noise shall include prescription of "stand-off" distance between the sub-station and the location, design specifications and time-scale for provision of any required/proposed acoustic barrier (earth bund and/or fencing or similar).

Thereafter, any resulting noise mitigation arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

54

No development within any phase of 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 details of any external lighting scheme(s)

required/proposed for the development of that phase, excluding street lighting arrangements. Where the phase of development includes the proposed primary school building and associated external sports areas, any separate sports and recreation area or playing fields area and the proposed local community Hub, the details sought shall include (but are not limited to) the lighting issues for those elements. The required scheme shall:

- a) be designed to minimise the use of external lighting within and around the boundaries of the site, and the effects of light spills and glare upon the surrounding area beyond the site boundary;
- b) provide details of all required/proposed external lighting arrangements, whether free-standing or affixed to buildings/structures or similar during both the construction and completed development; and
- c) include the location and design specifications (including both candela and lux rating information) for all lighting to be installed and the time-periods for operation together with specifications for all mitigation measures to be introduced and designed to minimise the impact of lighting within and beyond the site boundary, for example, light hoods and louvres, orientation and angle of downward inclination of lamps, etc.

Thereafter, the external lighting arrangements shall be implemented within that phase, in accordance with the approved details and no further external lighting shall be provided, installed or used within that phase throughout the lifetime of the development except where otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure an acceptable form of development in particular to minimise the potential for light pollution including light glare/spill and disturbance impacts upon the visual amenity and appearance of the surrounding area, including any existing or proposed neighbouring residential property.

55

No development shall commence on any phase until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding a detailed Construction Noise Impact Assessment for that phase which shall:

- a) be based upon (but not limited to) procedures for good practice and workmanship, and noise management and control as advocated within relevant BS:5228 codes of practice for noise and, where necessary, vibration;
- b) identify all noise management and mitigation measures (including noise and where necessary vibration monitoring

programmes) to be adopted during construction works for the development of that phase, to be based upon the appointed contractor's working practices and methods together with proposals to promote and establish community relations to address noise/vibration impacts at the closest neighbouring properties to that phase including any cumulative impacts from development of other phases, arrangements and procedures/protocols for reporting, handling and responding to complaints regarding noise where so received; and

- c) unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Environmental Health Manager, construction noise criteria for the permitted construction hours above shall be in accordance with the ABC method detailed in BS 5228-1 :2009 (Noise).

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

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

56

No development shall commence on any phase until a scheme to control dust during the construction phase for that phase of the development has been submitted and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager. The scheme shall identify any potential cumulative impacts that may arise from concurrent development of other phases.

Thereafter, the dust control arrangements shall be implemented on that phase in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

57

No development shall commence on any phase of the development until an assessment of air quality for the construction and operational phases of that phase of the development has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager. The scheme shall identify any potential cumulative impacts that may arise from concurrent development of other phases.

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

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring

residential property.

- 58 No development shall commence on any phase of the development until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding a suitable assessment of road traffic noise arising for residential development within that phase of the development, as well as considering road traffic noise as it may affect existing residential development outwith the application site, pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN). The scheme shall identify any potential cumulative impacts that may arise from the concurrent developments of other phases.

Thereafter, any resulting noise mitigation arrangements shall be implemented within that phase, in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 59 Prior to the school commencing a Noise Impact Assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN), shall be submitted and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager, detailing all noise sources associated with the construction and operational phases of the development. The Assessment shall also identify all measures (including their location, design specifications and external impact) to be adopted to mitigate the impact of noise emissions from the development.

Thereafter, any resulting noise mitigation arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 60 No development of the proposed primary school shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding measures to suitably control cooking odours from any proposed kitchen ventilation/extraction system serving any proposed primary school associated with the development, including the installation and maintenance of any required/proposed ventilation/extraction system.

Thereafter, ventilation/extraction and odour control arrangements shall

be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

61

No development shall commence for any proposed development/use within Use Class 3, 7, 8 and 10 until a Noise Impact Assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN) has been submitted and approved in writing by the Planning Authority, in consultation with the Environmental Health Manager, detailing all noise sources associated with the development. The Assessment shall also identify all measures (including their location, design specifications and external impact) to be adopted to mitigate the impact of noise emissions from the development.

Thereafter, all resulting noise mitigation arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

62

No development shall commence for any proposed development/use within Use Class 3, 7, 8 and 10 until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding measures to suitably control cooking odours arising from any proposed development/use within Use Class 3, 7, 8 and 10, including the installation and maintenance of any required/proposed ventilation/extraction system.

Thereafter, the ventilation/extraction and odour control arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

63

Fixed plant and machinery noise emissions associated with any proposed development/use within Use Class 1, 2, 3 and 4 shall, between the daytime of 0700 to 2300 hours, not exceed **Noise Rating Curve (NR) 25**, as determined within a living apartment of the nearest noise sensitive property with the external window moderately open. This limit would apply and be determined over a one-hour duration within any day-time period.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

64 **Fixed plant and machinery noise emissions** associated with any proposed development/use within Use Class 1, 2, 3 and 4 shall, between the night time of 2300 to 0700 hours, not exceed **Noise Rating Curve (NR) 20**, as determined within the bedroom of the nearest noise sensitive property with the external window moderately open. This limit would apply and be determined over a five-minute duration within any night-time period.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

65 The woodland area adjacent to Myreside Pond shall be retained and incorporated into the proposed open space area within the Hub + Central Open Space Character Zone, and in the event of any loss of trees or woodland occurring over 0.1ha within a phase of the development area as hereby approved, no development within that phase shall commence until details have been submitted to the Council, as Planning Authority in consultation with Scottish Forestry regarding details of a compensatory woodland planting scheme (the Replanting Scheme) within Moray. The Replanting Scheme details shall:

- a) include specifications for
 - i. on-site replanting;
 - ii. off-site compensatory planting;
 - iii. tree maintenance and protection to established planting; and
- b) comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the associated guidelines to which it refers and include:
 - i. details of the location of the area to be planted;
 - ii. details of land owners and occupiers of the land to be planted;
 - iii. the nature, design and specification of the proposed woodland to be planted:
 - iv. details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - v. the phasing and associated timescales for implementing the Replanting Scheme; and
 - vi. proposals for the maintenance and establishment of the Replanting Scheme, including annual checks; protection from predation; replacement planting; fencing; ground preparation; and drainage, etc.

Thereafter, the development shall be implemented in accordance with the approved Replanting Scheme details, including the phasing and timescales as set out therein.

Reason: To ensure an acceptable development in the absence of details of the matters specified from the submission and to ensure an acceptable form of development where replacement or compensatory planting is provided where the development results in a loss of woodland.

Reason(s) for Decision

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

Planning permission in principle has already been granted for the "mixed use development" within Area 1, R11 Findrassie/Myreside and I8 Newfield, comprising 400-500 houses, primary school and playing fields, employment opportunities, neighbourhood and community hub, open space, landscaping and associated infrastructure, subject to planning conditions and a legal agreement regarding planning obligations.

By seeking to vary some of the conditions of that development, this application seeks to maintain the overall parameters and provisions of the current permission but now within the framework of the submitted phasing plan for the whole Masterplan site. This would allow for development proposals on the site and its associated infrastructure to come forward in a phased manner by permitting the submission/approval of details and supporting information (including triggers for infrastructure requirements). These proposals would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.

Subject to the development progressing in accordance with the phasing plan and amended conditions as recommended, the proposal accords with planning policy and respects the Findrassie Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

List of Informatives:

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

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

The development is subject to a legal agreement (Section 75) in regard to
a) developer obligations towards primary education facilities (a 2.5ha

- serviced site for a primary school) and secondary education facilities, healthcare, transportation and sports and recreation facilities; and
- b) the required delivery of a positive boundary treatment for western edge of sub-station (in accordance with requirements of the Findrassie Masterplan.

The Findrassie Masterplan was as approved on 1 December 2015 by Moray Council as Supplementary Guidance. As a material consideration, the Masterplan carries significant weight in the determination of all planning applications at Findrassie.

The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works in themselves may require the submission of a planning application.

In relation to accessible housing condition, subject to the following requirements at all times being provided, no other internal alterations would require the prior approval of the Council as Planning Authority:

- Hallways - minimum 1200mm wide.
- Door frames - minimum 926mm wide door leaf, giving a clear width of 870mm.
- Bathroom/wet rooms to be retained on ground floor - 1500mm wheelchair turning circle required.

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

It is recommended that early contact be made with this Section in connection with proposed commercial developments, including any food business proposal, to ensure proposals comply with the Health and Safety at Work etc Act 1974 and associated legislation, in addition to the Food Hygiene (Scotland) Regulations 2006 where necessary.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

The Transport Assessment as provided by the applicant in support of the submission has been used on a comparative basis only as junction models have not been calibrated to observed queue lengths at critical junctions on the existing road network.

The following drawings submitted showing proposed junction improvements are not approved:

- Transport Planning Ltd Drawing No. TP187/SK/001
- Transport Planning Ltd Drawing No. TP187/SK/103
- Transport Planning Ltd Drawing No. TP187/SK/301
- Transport Planning Ltd Drawing No. TP187/SK/302
- Transport Planning Ltd Drawing No. TP187/SK/303C
- Transport Planning Ltd Drawing No. TP187/SK/304

All designs for traffic signal-controlled junctions shall take into consideration

locally measured saturation flows e.g. at the existing North Street/Morrison Road junction.

The Elgin Traffic Model is being re-built and any further detailed application for Area 1 and beyond will need to be supported by a Transport Assessment utilising 2018 base year traffic model data. This model will also be used to inform and identify development impacts on the local and trunk road networks, appropriate mitigation measures and developer obligations requirements to address impact of development on the wider transport network.

Before commencing development, the applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads. The applicant will be required to provide technical information, including drawings and drainage calculations, and provide a Road Bond to cover the full value of the works in accordance with the Security for Private Road Works (Scotland) 1985 Regulations. Advice on this matter can be obtained from the Moray Council web site or by emailing road.maint@moray.gov.uk

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing public roads to determine the extent of re-construction required within the development site.

A Road Safety Audit shall be completed for all new or modified junctions unless otherwise agreed in writing with the Roads Authority for the modifications to the existing public road (including all A941 junction improvements, Morrison Road/Duffus Road junction improvements and the proposed site accesses onto A941 and Covesea Road) will also be required as part of the Roads Construction Consent.

Requirement for any traffic calming, road construction materials and specifications and any SUDs related to the drainage of the public road must be submitted and approved through the formal Roads Construction Consent process.

Planning consent does not carry with it the right to carry out works within the public road boundary and the applicant is obliged to contact the Transportation Manager for road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

For garage parking to be included as part of the parking provision the applicant must demonstrate the garages car parking spaces have minimum clear internal dimensions not less than of 3 metres by 7 metres.

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

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority. The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into his property.

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

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

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

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

Street lighting will be required as part of the development proposal. The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals.

ABERDEENSHIRE ARCHAEOLOGY SERVICES has commented that:

The affects the archaeology site NJ26NW0056, an area of cropmarks thought to indicate prehistoric activity, adjacent to the archaeology sites NJ26NW0040, an extensive area of cropmarks indicating prehistoric settlement remains, and NJ26SW0048, cropmarks indicating the presence of a probably prehistoric enclosure.

The mitigation should take the form of a 7-10% archaeological trial trenching evaluation of the proposed development site to be carried out in advance of development works; a phased approach to archaeological mitigation can `be taken in line with any proposed phasing of development works.

SCOTTISH WATER has commented that:

Comments received from SCOTTISH WATER are attached for your information.

See consultation response dated 24 September 2019 regarding information about current availability of water, foul and surface water drainage for the development together with Scottish Water's General Notes and "next steps" etc.

MORAY FLOOD RISK MANAGEMENT has commented that:

In accordance with the submitted Drainage Assessment & Flood Risk Assessment and together with the requirement to restrict flows to existing rates, there is a need for the development to be assessed based on current guidance at the time of application. Whilst the submitted Drainage Assessment & Flood Risk Assessment allows for 20% climate change, current guidance seeks a 30% allowance for climate change.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See consultation responses (as already provided to the agent) dated 5 July 2017, 5 September 2017 and 26 September 2019.

The CEMP is submitted at least 2 months prior to the commencement of any works on site; this is to allow the necessary agencies sufficient time to fully review the mitigation proposals to avoid any potential delays to the project moving forward.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan
14098(P) 500	Site plan
SK001	Proposed mitigation measures
SK002	Tracking - Maisondieu Road
SK003	Pansport Road tracking
SK004	A96 West tracking
	Phasing Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

19/01085/APP

Site Address:

Elgin R11 Findrassie/Myreside Site And I8 Newfield, Findrassie

Elgin

Applicant Name:

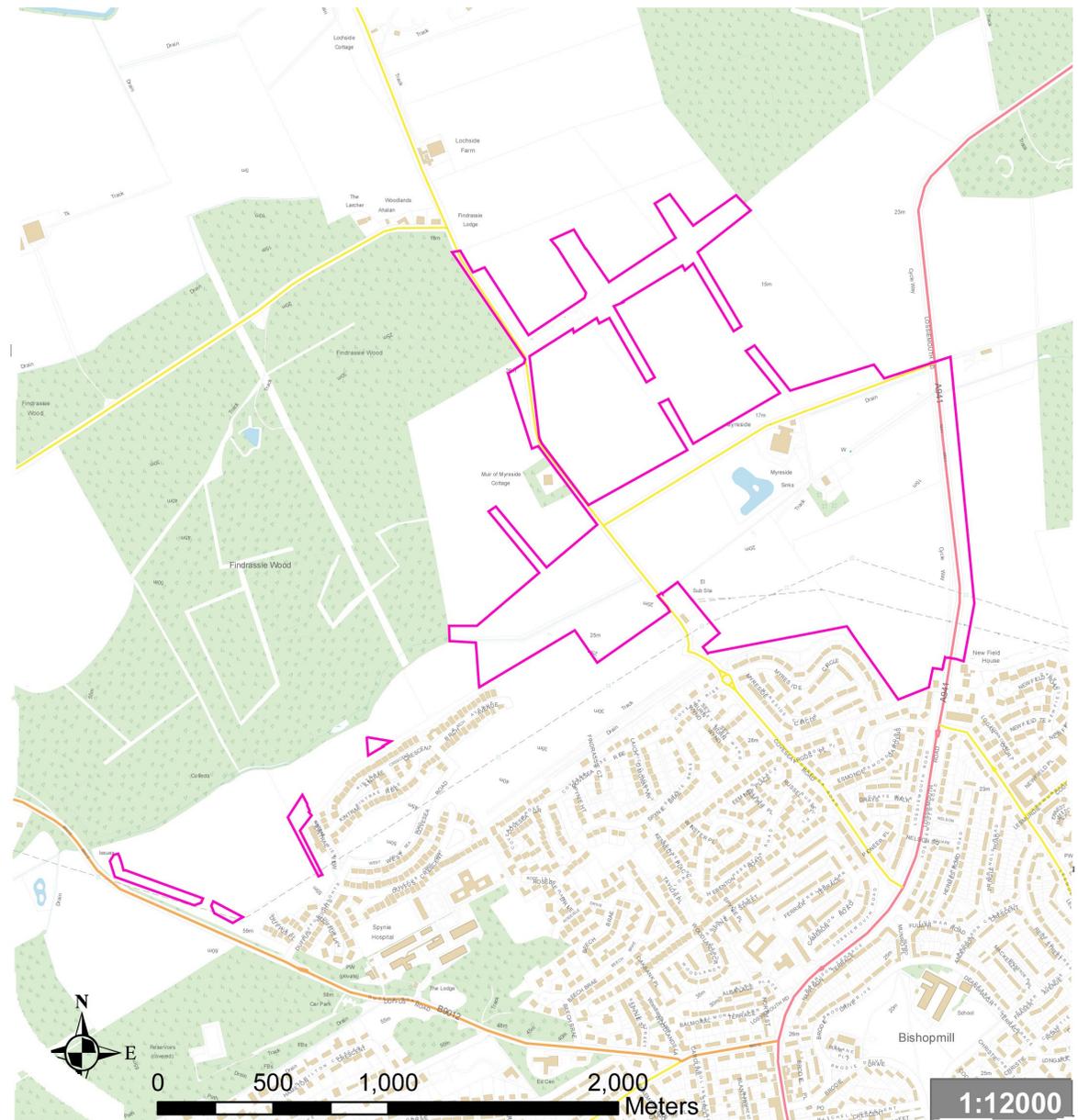
Pitgaveny Farms

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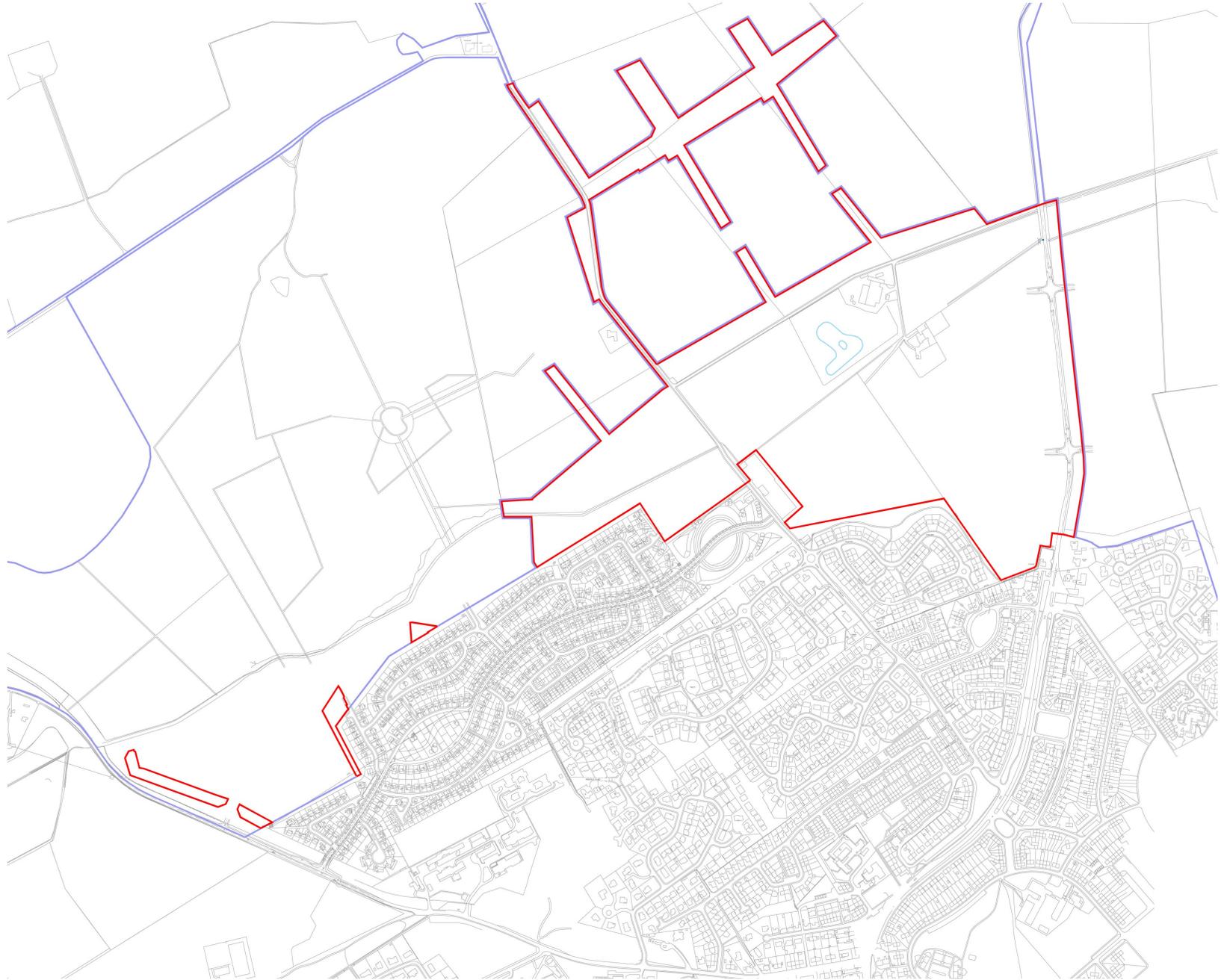
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Location Plan



Site Location



Site plan











PLANNING APPLICATION: 19/01085/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

- This application submitted under Section 42 seeks to vary 46 of 65 conditions imposed on planning consent 17/00834/PPP for a “mixed use development”, comprising Class 9 residential development including affordable housing and student residential accommodation, community facilities including a primary school with playing fields, associated neighbourhood uses within Class 1 (Shops), Class 2 (Financial, professional and other services), Class 3 (Food and drink), Class 4 (Business), Class 7 (Hotel), Class 8 (Residential institutions) and Class 10 (Non-residential institutions) (Use Classes Order 1997 refers) together with associated infrastructure, namely, roads, drainage, services, open space, and landscaping including advance landscaping within Area 1, at sites R11 Findrassie/Myreside Site and I8 Newfield Elgin.
- From supporting information, Area 1, envisaged to comprise an "integrated mixed use new neighbourhood", would include:
 - c.400 - 500 houses, including affordable housing, flats and student residential accommodation
 - new primary school and playing fields
 - employment opportunities (Class 1, 2, 3, 4, 7, 8 and 10 uses)
 - associated neighbourhood uses including community hub
 - open space and landscaping including advanced landscaping
 - roads, pedestrian and cycle routes through the site and to/from existing areas
 - water supply and drainage infrastructure
- The location and extent of Area 1 is defined on drawing 14098(OS) 100 (Location Plan). Drawings 14098(PL) 500 and 501 show the extent of Area 1 relative to an indicative site layout for the whole of the Masterplan area.
- The S42 application seeks to vary the majority of the conditions to allow for the development of the site and its necessary infrastructure to come forward in a phased manner by permitting the submission of details and supporting information (including triggers for infrastructure requirements) in accordance with an overall phasing plan which has been submitted with the application. These would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.
- The conditions proposed for amendment are 1-12 inclusive, 14-16, 18, 20, 21, 23-25, 31, 32, 37, 38, 40, 41, 43-51, 53-58, 60-62 and 65. These, as currently worded, require the submission and approval of details of all elements within Area 1 (and supporting information) prior to commencement of any development, without having regard to phasing. This is the main reason for this application as different developers/parties will be responsible for various elements of the development.
- The variations sought are:
- The amendment of condition 1 allowing for the submission and approval of a

detailed phasing plan as part of the current S42 application, which sets out the framework for coordinating development and phases of development within Area 1 based on the approved Findrassie Masterplan; and thereafter, requiring approval to be obtained for the matters specified in the conditions including the siting, design and external appearance of all building(s)/structure(s), the means of access thereto, drainage and landscaping within each respective phase.

- The proposed amended conditions referencing the phasing plan require the following information to be submitted with each AMC or detailed application (this information will vary depending on the nature and location of the proposal):
 - detailed drawings of the siting, design and external appearance of all buildings/structures, assess thereto, drainage and landscaping/open space;
 - design statements accompanying each application to demonstrate compliance with place-making principles and Design Codes/Character Zones within the Findrassie Masterplan;
 - provision of transportation infrastructure (roads, junctions, improvements to the local road network, footpaths/cycleways, pedestrian crossings, bus laybys etc.);
 - provision of drainage infrastructure, including pumping station (foul and surface water SUDs);
 - finished floor levels to be set above 1:200 flood levels (where required);
 - detailed landscape scheme(s) which accord with approved Masterplan requirements;
 - provision of affordable and accessible housing;
 - pre-construction species surveys and mitigation measures to protect the Loch Spynie SSSI, SPA and Ramsar Sites to the north;
 - Construction Environmental Management Plans;
 - mitigation measures to protect private water supplies;
 - provision of a 10m buffer for watercourses and other green measures;
 - sustainability statements to demonstrate compliance with sustainability objectives;
 - details demonstrating the potential or otherwise for district heating investigations;
 - contaminated land assessment(s);
 - archaeological investigation works;
 - updated noise impact assessments, external lighting, dust and air control measures;
 - kitchen ventilation to the school and other commercial premises; and
 - compensatory woodland planting.

- Further proposed amendments to the conditions include revised wording specifically to the following:
 - Conditions 1 and 4, to cover the specific provision of route to school walking and cycling and infrastructure with each phase of development (on and off-site).
 - Condition 12, to include triggers for the submission of a strategy, timetable and delivery (and sequence of delivery) for the central open space and advance planting required within landscape details to be submitted as part of two AMC applications.
 - Condition 14 to remove reference to residential proposals being in accordance within Class 9 (Houses) only, which as currently worded excludes flats (sui generis), as flats form part of the proposed approved development.
 - Condition 15 to require improvements to the A96 road network (Pansport Roundabout) based on a new trigger of 350 residential unit completions (whereas previously this was 175 residential units plus primary school and hub).

- Condition 18 requiring provision of a secondary access (either emergency or permanent) onto the A941 Elgin to Lossiemouth Road based on a trigger of 50 completed house units (whereas previously this was required prior to any development commencing).
- Condition 23 requiring modifications to the A941/Myreside Junction and western end of Myreside Road to be carried out prior to first operation of the northern access onto the A941 (whereas previously this was required prior to any development commencing with access from A941).
- Condition 31 requiring approval of details/timescales for provision of active travel corridors/connections between the development and Elgin Core Paths EG31 and EG33 and a cycleway connection alongside Covesea Road to the south of the development linking to the existing cycleway (or other cycle link to Moray Council adoption standards) to provide a continuous adopted cycle route to the existing remote cycle track at the Lossiemouth Road/Covesea junction.
- Condition 37, to permit a limited (temporary) connection to the Elgin Town drainage Network in consultation with Scottish Water, to allow for the commencement of initial development whilst the Rising Main is being installed by the applicant (whereas previously none of the development was to connect to the Elgin Town network).

Submitted supporting documentation includes all documents previously part of the 17/00834/PPP application, document entitled '17/00834/PPP Proposed S42 Amended Conditions, dated 30 August 2019, updated 13 February 2020' containing the full wording of the proposed amended conditions, reasons and accompanying justification for each amendment, a phasing plan for Area 1 and updated drawings of the A96 Pansport roundabout.

THE SITE

- The site lies to the north of Elgin beyond its existing built-up edge; Area 1 is an irregular-shaped area of land, approx. 48.6ha.
- Area 1 forms part of the (larger) Elgin R11 Findrassie/Myreside and Elgin I8 Newfield designations, as defined in the MLDP 2015. The total combined area of these designations is approx. 112ha i.e.100ha for housing and 12ha for employment/business use.
- This Area 1 application refers mainly to the south-eastern part of Elgin R11 designation, located between the A941 Lossiemouth Road to the east and Covesea Road to the west and land to the south and north of Sey Burn.
- No development is proposed within the Elgin I8 designation except for a 20m wide strip of landscaping located along the edge of the A941 Lossiemouth Road and two access junctions providing access to both Elgin R11 and I8 sites.
- Based upon the Masterplan layout, land for advance and enclosing woodland/tree belt planting is proposed mainly to the west and north of the main areas within Area 1 to be developed for residential use, and as enclosure to parcels of land to be developed in later phases of the development at Findrassie or to separate the site from existing development.
- The Area 1/Masterplan site is bounded by Findrassie Woods to the north west and by existing residential development off Covesea Road including development off Myreside Circle, Argus Place and Esmonde Gardens and Hamilton Gardens to the south and south-west.

- To the west, the site is bounded by Duffus Road and to the east, beyond the A941 Lossiemouth Road, the site is bounded by agricultural land.
- Covesea Road extends north-south through the Findrassie designation and forms part of the western boundary to Area 1. The existing electricity substation on the east side of Covesea Road adjoins but is not located within the Area1/Masterplan site.
- Extending between the existing sub-station and the A941 Lossiemouth Road is an overhead power line route supported on two pylons.
- Myreside Road extends east-west through the site between Covesea Road to the west and the A941 Lossiemouth Road to the east.
- At the eastern end of Myreside Road are existing residential and agricultural buildings at Myreside Farm (to be converted to form the local community Hub).
- Generally, Area 1 comprises agricultural land (which is not prime quality land) with undulating topography across the land area, falling northwards from approx. 25mAOD along the southern boundary to approx. 13mAOD towards the lower-lying proposed green space corridor extending along the Sey Burn and thereafter the land rises (beyond Area 1) to approx. 25mAOD.
- Within the lower-lying area of the Elgin R11 designation (and towards the northern edge of Area 1) is the Sey Burn which runs west-east through the site and ultimately discharges into Loch Spynie, an existing pond at Myreside and an area of woodland/trees at Myreside Farm.
- Land within Area 1 is not subject to any landscape or natural or cultural heritage designations except in relation to known areas of archaeological interest located over parts of the site.

HISTORY

19/01220/AMC - Application for Approval of Matters specified in conditions 1 - 17, 19, 23, 25-30, 37-44, 45-47, 52, 53 and 58 on planning consent 17/00834/PPP for proposed residential development of 92 homes including affordable housing with landscaping parking access and associated works within part of Area 1, R11 Findrassie/I8 Newfield – this extends to 5.3ha, forms the southern corner of the Area 1 site and is currently pending consideration.

17/00834/PPP - Planning permission in principle for "mixed use development" with Class 9 residential development including affordable housing and student residential accommodation, community facilities including a primary school with playing fields, associated neighbourhood uses within Class 1 (Shops), Class 2 (Financial, professional and other services), Class 3 (Food and drink), Class 4 (Business), Class 7 (Hotel), Class 8 (Residential institutions) and Class 10 (Non-residential institutions) (Use Classes Order 1997 refers) together with associated infrastructure, for example, roads, drainage, services, open space, and landscaping including advance landscaping at sites R11 Findrassie/Myreside Site and I8 Newfield Elgin. This is also subject to a S75 legal agreement requiring developer obligations towards primary education facilities (a 2.5ha serviced site for a primary school), secondary education facilities, healthcare, transportation and sports and recreation facilities; and delivery of positive boundary treatment to western edge of existing electricity sub-station. Issued 1 July 2019.

16/00413/PAN - Proposal of Application Notice (PAN) for mixed use development with Class 9 residential development including affordable housing and student residential

accommodation, community facilities, a primary school with playing fields, associated neighbourhood uses within Class 1 Shops, Class 2 Financial, professional and other services, Class 3 Food and drink, Class 4 Business, Class 5 General Industrial, Class 6 Storage and distribution, Class 7 Hotel, Class 8 Residential institutions, Class 10 Non-residential institutions (Use Classes Order 1997 refers) together with associated infrastructure (for example roads, drainage, services, open space, landscaping including advance landscaping) at R11 Findrassie/Myreside and 18 Newfield - response (28 March 2016) confirms the requirements for consultation with the local community.

Following consideration of the PAN, the Planning & Regulatory Services Committee advised (19 April 2016) that consideration should be given to placing overhead electricity lines underground, and to note the current pressure of school rolls in the area [paragraph 13 of Minute refers].

16/01374/SCN - Screening Opinion for mixed use development comprising Class 1 Shops, Class 2 Financial, professional and other services, Class 3 Food and drink, Class 4 Business, Class 5 General Industrial, Class 6 Storage and distribution, Class 7 Hotel, Class 8 Residential institutions, Class 10 Non-residential institutions (Use Classes Order 1997 refers) sui generis student residential accommodation and associated infrastructure works (including roads drainage open space and landscaping) at Findrassie - formal Screening Opinion adopted/issued (17 October 2016) where, under the Environmental Impact Assessment Regulations 2011 (EIA) and after taking account of the characteristics and location of the development and the characteristics of its potential impact, the proposal is a 'Schedule 2 development' but would not be likely to result in significant environmental effects, hence the proposal is not EIA development and formal EIA procedures are not required.

1 December 2015 - After consideration, the Planning & Regulatory Services Committee agreed inter alia to approve the Findrassie Masterplan as Supplementary Guidance, to be used as a material consideration that will be given significant weight in the determination of planning applications pertaining to sites R11 Findrassie/ Myreside and 18 Newfield of the Moray Local Development Plan [paragraph 8 of Minute refers].

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

- Advertised for neighbour notification purposes.

CONSULTATIONS

Building Standards Manager - Building Warrant is required.

Estates Manager - No comments received.

Strategic Planning & Delivery – No objection. The Strategic Planning and Development section previously objected to the proposed variations to the conditions and the phasing plan. The initial objection raised concerns with the enforceability of the proposed conditions to ensure that the central area of open space and the advance planting would be provided and that its delivery could be enforced. The response highlighted concerns that the phasing plan was not being approved as part of the S42 and wider PPP

application as it was merely a supporting document. It lacked detail regarding triggers or timings in relation to the delivery and enforceability of these key strategic elements. This raised issues with the delivery of the central area of open space and advanced landscaping as it would be effectively detached from the housing element. These key elements would have been separate phases without any detailed conditions to enforce their delivery as the housing element built out.

Following a meeting and discussions with the applicant a revised phasing plan and proposed rewording of the conditions was provided. The rewording of condition 1 has been amended to include the approval of the phasing plan as part of the S42 application which is supported. This will tie the phasing plan to the PPP application to ensure that the strategic elements of the masterplan will be delivered and are enforceable. Proposed wording was suggested to the applicant for Condition 12. This was to ensure that the advanced planting will be delivered and is enforceable across all phases of the masterplan (even if phases were to come forward in a different order than is stated in the phasing plan). On this basis the proposal is acceptable.

Developer Obligations – The existing S75 legal agreement associated with the planning consent 17/00834/PPP will be required to be modified to take account of the S42 application, but the obligations included will remain the same.

Environmental Health Manager – No objections to the proposed amendments pursuant to the Section 42 application.

Environmental Health, Contaminated Land - No objection subject to condition requiring assessment of land contamination to include details, where required, for remediation and validation, etc.

Environmental Protection Manager - No comments received.

Moray Access Manager - No objection. I am in agreement with the condition changes to include reference to footpaths and cycleways. On a general note the development should integrate with the wider masterplan in terms of accommodating future roll out of the cycle and paths network. The development should also contain a functional hierarchy for the paths network indicating on the plan which routes are for multi user active travel and which are for lower level general recreational access.

Transportation Manager – No objection to the proposed revised transport related conditions and revisions agreed in separate email correspondence with the applicant.

Transport Scotland – Condition to be attached that no development to commence beyond 350 dwellings until i) completion of the Hardmuir to Fochabers section of the A96 dualling programme, or ii) completion of works to the A96 East Road/Maisondieu Road/Pansport Road roundabout as shown in drawing number SK001 or iii) a Transport Assessment or Addendum Report has been submitted/approved and trunk road mitigation measures necessary to offset the impact of the development have been implemented within an agreed timescale, to ensure that the scale of the development beyond 350 residential units is supported by any the above mitigation and that it does not adversely affect the safe and efficient operation of the A96 trunk road network.

The applicants commissioned a topographical survey of the A96/Pansport Road/Maisondieu Road Roundabout having based previous assessment work on OS

mapping. Their consultants undertook further analysis based on on-site dimensions and were able to provide sufficient evidence that up to 350 dwellings could be occupied before the performance of the roundabout deteriorated to an unacceptable level. This position has been accepted by Transport Scotland and appropriate related planning conditions were recommended to Moray Council in the consultation response of 4 November 2019.

Moray Council, Housing & Property Manager - No objection to the proposed amended conditions.

Policy H8 requires that 25% of units are provided for affordable housing. The applicant is required to, and must, agree the housing mix and arrangements for delivery of the affordable housing prior to starting any housing on the site. The applicant should contact officers in Housing and Property to agree the arrangements for delivery of the affordable housing.

Policy H9 requires that 10% of private sector units are built to wheelchair accessible standards with Supplementary Guidance: Accessible Housing requiring that not less than half of the private sector wheelchair accessible units are built as single storey units. An approved Compliance Statement along with sufficiently detailed plans is required to demonstrate that accessible housing requirements have been met.

Moray Council, Education – No comments to make.

Moray Flood Risk Management - No objection, agrees to the proposed amendments to the conditions covering drainage.

Scottish Environment Protection Agency (SEPA) – No objection. We have previously been contacted by Barratt North Homes to discuss any requirements we would have in regard to phased development of the site and the amendment of the approved conditions. We welcome the acknowledgement of any such requirements as referenced in the “Proposed amendment” column of the Proposed S42 Amended Conditions document.

As such we are pleased to confirm we have no concerns with the proposed amendments to the conditions relating to issues within our remit and on this basis have no objection to this application.

Scottish Natural Heritage (SNH) – No comments to make.

Aberdeenshire Archaeology Services - No objection subject to condition requiring for each phase a programme of archaeological works in accordance with a written scheme of investigation (WSI) and a post-excavation research design (PERD) where the need for post excavation analysis is identified.

Ministry of Defence – No comments received.

Scottish Forestry – No objection, confirms that the amendment proposed to condition 65 regarding woodland retention and compensatory planting in the event of tree removal would be acceptable to Scottish Forestry.

Scottish Water - No objection, however this does not confirm that the proposed development can currently be serviced. In terms of water supply, Scottish Water is unable to confirm capacity at the relevant water treatment works at this time and to allow full

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

In this case the proposal is subject to a designated site which will be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below.

Background to application

As already outlined, many of the conditions of the PPP require the submission/approval of details of elements within all of the Area 1 to be provided prior to commencement of any development within the site, without having regard to phasing arrangements. This was required as a phasing plan with triggers for requirements was not submitted with the PPP application. The current S42 application, supported by the accompanying phasing plan seeks to address this issue by inserting amendments into the wording of the majority of conditions (46 out of 65), to allow for the submission of information relating to the phase for which development is sought and its necessary infrastructure. This would, as confirmed by the applicant then provide for the delivery of the various components required for the development of area 1 in a sustainable/viable manner and allow elements to come forward independently, but within the framework of the Masterplan and the PPP consent.

All aspects of the proposed development will require to be subject to further application(s) for permission prior to works commencing on site. Subject to the development progressing in accordance with the varied (and unaltered) conditions as recommended, incorporating consultee requirements and the already approved Masterplan with its design code and site principles (to address place-making requirements), the development would satisfy Policy H1 (and other policy) and be acceptable 'in principle'.

Section 42 application

An application under Section 42 of the 1997 Planning Act seeks to provide a new planning permission but with different conditions from those attached to a previous permission for that development.

In this case, the current application is seeking to modify some of the existing conditions imposed on the consent 17/00834/PPP to allow for the submission of details and triggers for requirements in line with the submitted phasing plan, as the current conditions do not

provide the framework for details to be submitted in a phased manner without all details being provided at the same time.

For Section 42 applications, the consideration is about the conditions to be attached to any resultant new permission. Circular 3/2018 (Development Management Regulations) states, if the decision does not alter or effect the previous permission and/or it should be granted subject to the same conditions as before then the application should be refused. However, if permission should be granted subject to different or no conditions these should be attached to the new permission along with conditions from the previous permission where it is intended that these should apply. Where appropriate, the Council, as Planning Authority should also ensure that the permission is granted subject to the conclusion of any appropriate planning obligation. In this case a modification of the existing agreement to include the current application reference is required.

In terms of development type although this Section 42 application is a major proposal, it is not subject to pre-application consultation procedures. The Regulations advise that the duration of the new permission should be as specified in Section 58 (or 59) of the Act although it is possible to direct and apply an alternative time-period. In this case a change to the (Section 58) 3-year period to 5 years for the duration of the permission was sought and approved under the PPP application. The current S42 application does not seek to alter this.

Development on land at Findrassie/Myreside R11 and Newfield I8 (Elgin R11, I8, TSP16, TSP17, ENV6, H1, PP3 and IMP1)

(Conditions: 1 - 12, 14, 15, 16, 18, 20, 21, 23 - 25, 31, 32, 37, 38, 40 and 41)

The principle of the 'mixed used development' within Area 1, Findrassie was established on 1st July 2019 following the issuing of the planning permission in principle 17/00834/PPP.

Area 1 forms part of an area already allocated for residential and employment purposes i.e. the Elgin R11 and I8 designations as defined within MLDP 2015. This land allocation is subject to the approved Findrassie Masterplan which provides a framework, including design and siting principles and codes for the delivery of development at Findrassie including the Area 1 site. Any development would require to be provided in accordance with site-specific requirements for these designations and other development requirements as identified within planning policy, (Appendix 1).

The conditions of the PPP listed above as currently worded require the submission and approval of detailed drawings showing the siting and design of all buildings/structures (housing, primary school, community hub and commercial premises), transportation and drainage infrastructure, open space and landscaping for the whole site and supporting information including design statements to demonstrate compliance with place-making principles and Design Codes/Character Zones within the Findrassie Masterplan. The proposed amendments to the conditions would allow for the phased submission of these details in line with the submitted phasing plan, and provide a mechanism for development along with its necessary infrastructure to progress across the site.

Subject to the development progressing in accordance with the submitted phasing plan and amended conditions as recommended, incorporating consultee requirements and the already approved Masterplan with its design code and site principles (to address place-making requirements), the development would satisfy Policy H1 (and the associated abovementioned policies) and be acceptable 'in principle'.

Place-making, design and site layout and sustainability

(Elgin R11, 18, PP2, PP3, E4, E5, EP2, IMP1 and H1)

(Conditions: 1 – 12 inclusive, 14, 15, 16, 18, 20, 21, 23-25, 31, 32, 37, 38, 40 and 41)

The PPP application sought only to establish the principle of development within Area 1 at Findrassie. No detailed design or site layout details were provided with that application, nor have they been submitted with the current S42 application. In principle, the development is supported by MLDP 2015 policy, and the Findrassie designations and approved Masterplan and the extent to which any future detailed design and site layout arrangements accord with these requirements will need to be assessed within subsequent AMC or detailed applications. In line with the PPP conditions, these are expected to demonstrate how the Masterplan principles and PP3 place-making principles have informed each development.

The proposed modified conditions identified above requiring adherence to the phasing plan would allow for the various detailed designs, site layout plans and supporting information to be submitted with each application within the framework of the phasing plan and Findrassie designations and approved Masterplan. This is amplified within supporting information accompanying the application entitled '17/00834/PPP Proposed S42 Amended Conditions dated 30 August 2019, updated 13 February 2020' which contains the full wording of the proposed amended conditions, reasoning and justification for each amendment. The amended conditions and phasing plan would also facilitate the consideration and provision of the necessary transportation and drainage infrastructure for each proposed development and the wider Area 1, and the advance and central landscape areas which are key strategic elements of the masterplan, as approved by the PPP.

For these latter elements condition 12 has been specifically amended to include triggers for the submission of a strategy, timetable and delivery (and sequence of delivery) for the central open space and advance planting required within landscape details to be submitted as part of AMC applications. This includes enforceable triggers based on completions of residential units and a pro rata approach to the delivery of the open space to ensure that its provision is related to the housing element and the wider PPP application which is essential given its importance to the wider masterplan.

Subject to the development progressing in accordance with these requirements the proposal would to comply with the following policies PP2, PP3, E4, E5, EP2, IMP1 and H1 and designation requirements Elgin R11 and I8.

The proposed revised wording to condition 14 to remove reference to residential proposals being solely in accordance within Class 9 (Houses) (as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997), which specifically excludes flats (sui generis) is acceptable as flats form part of the proposed approved development and are a type of development that would be supported here to provide a mix of housing types.

Sustainability (PP2 and Scottish Planning Policy (2014))

(Conditions 48 and 49)

A Sustainability Statement which was submitted with the PPP application sets out how the objectives of Primary Policy PP2: Climate Change would be addressed within future development. This also provided information on the potential for technological innovation to occur over the life-time of the development, including measures to afford greater insulation and solar gain and to lower energy consumption, for example through use of

micro-renewable systems and connection to a district heating network, the latter as advocated within Scottish Planning Policy (2014) and SEPA, and also envisaged by the Findrassie Masterplan (i.e. decentralised or local source of heat/power such as a biomass facility). With the above requirements in mind, conditions 48 and 49 of the PPP require the submission/approval of Sustainability Statements for each AMC or detailed application, and as recommended by SEPA, details of infrastructure to be provided and/or land to be safeguarded for infrastructure to connect to any existing or proposed district heating network, unless a feasibility study demonstrates otherwise.

The proposed variations requiring the submission/approval of the above information for developments on each phase would ensure an acceptable form of development in accordance with sustainability objectives for development at Findrassie, and demonstrate the consideration given to SPP 2014 to include infrastructure to make best use of available local resources.

Transport and Access (R11, I8, T1, T2, T5, T7, IMP1, IMP2, and IMP3) (Conditions 1, 2, 4, 9, 15, 16, 18, 20, 21, 23, 24, 25, 31 and 32)

The Transport Assessment (TA) and Transport Assessment Supplementary Paper (TASP) which accompanied the PPP application highlighted that the development would have an impact upon the local and trunk road networks and the need for transport infrastructure. To this end, the application was approved subject to a range of conditions and developer obligations requiring the provision of transport infrastructure both on and off-site, and mitigation measures to address the development traffic impacts on the wider local and trunk road networks.

More specifically, as currently worded these conditions require:

- 1) details of the provision for public transport (including bus stop infrastructure (laybys, shelters and flags), widening of road bends and provision for bus services to serve the site (conditions 9, 16 and 25);
- 2) details of location, design specifications and timescale for delivery of southern and northern accesses to the development to/from the A941 and accesses on Covesea Road (conditions 18, 20, 21);
- 3) road modifications to prevent access onto A941/Myreside Road (conditions 23);
- 4) location, design specifications and timescale for upgrading Covesea Road and Myreside Road to "primary routes" including dedicated pedestrian and cyclist facilities (condition 21 and 24);
- 5) not more than 50 units to be accessed off the A941 Lossiemouth Road and Covesea Road until second points of access and/or routes to enable emergency access are provided (condition 19 and 22);
- 6) location, design specifications and timescale for improvements to capacity at Morrision Road/Duffus Road, North Street/Morrision Road and Covesea Road/Lossiemouth Road junctions (conditions 33 - 36 inclusive);
- 7) location, design specifications and timescale for provision of a cycleway along Covesea Road linking to the existing cycleway and the internal road, public transport, pedestrian and cycle networks (conditions 25 and 31);
- 8) provision of construction traffic management plans including temporary construction access (condition 32);
- 9) specifications for visibility and parking (conditions 25 – 30); and
- 10) development not to commence beyond 175 residential units including the primary school and hub until either the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme is completed, or an updated Transport Assessment/Addendum

Report with associated trunk road mitigation measures is submitted and approved (condition 15).

The proposed variations to the conditions identified requiring the submission and approval of the above details and works for each phase in accordance with the phasing plan (along with other agreed timescales as discussed below) would ensure the proportionate provision of roads infrastructure with each application, and would not diminish the transportation requirements of the settlement statement designation R11, or associated TSP's.

The Transportation Manager has raised no objection to the revised wording but has suggested further minor amendments to the following conditions to address various transport related matters. The applicant has confirmed agreement to these amendments.

Conditions 1 and 4 have been updated to reference the specific provision of route to school walking and cycling infrastructure with each phase of development (on and off-site).

Condition 18 has been altered to include the requirement for provision of a secondary access (either emergency or permanent) onto the A941 Elgin to Lossiemouth Road prior to the commencement of the 50th residential unit, to allow development to commence while also ensuring that information is submitted at the appropriate time, in advance of the requirements for secondary access to the site.

Condition 23 has been amended to require modifications to the A941/Myreside Junction and western end of Myreside Road to be carried out prior to first operation of the northern access onto the A941, as detailed in condition 18.

Condition 24, has been revised to remove the requirement for the U39E Myreside Road to be upgraded to a primary route as part of the Phase E housing as it is unrelated and remote from this first phase of housing, lying 150m to the north along the northern boundary of phasing zone P.

Condition 31 has been altered to require approval of details/timescales for provision of a cycleway connection alongside Covesea Road to the south of the development linking to the existing cycleway (or other cycle link to Moray Council adoption standards) to provide a continuous adopted cycle route to the existing remote cycle track at the Lossiemouth Road/Covesea junction, prior to completion of any residential/non-residential building within any phase of the development with the exception of phases E1 and E2. This requirement was initially proposed for exclusion from the whole of phasing Zone E, but this was considered unacceptable given the close proximity of the western part of Zone E (Phases E3 and E4) to Covesea Road and the likely routes to schools, shops and services.

The proposed revised requirement within condition 15 linking the provision of improvements to the A96 trunk road network (Pansport Roundabout) to a new threshold of 350 residential unit completions, previously 175 units including the primary school and hub, has also been agreed by Transport Scotland. This follows further investigative work by the applicants who commissioned a topographical survey of the A96/Pansport Road/Maisondieu Road Roundabout having based previous assessment work on OS mapping. Their consultants undertook further analysis based on on-site dimensions and were able to provide sufficient evidence that up to 350 dwellings could be occupied before

the performance of the roundabout deteriorated to an unacceptable level. This position has been accepted by Transport Scotland and reflected within the amended condition.

Subject to the development progressing in accordance with the above conditions/requirements the proposal would comply with transport related policies T1, T2, T5, T7, IMP1, IMP2, IMP3 and designation/TSP requirements.

**Water Supply, Drainage and Flooding (EP5, EP6, EP7, EP10, IMP1, IMP2)
(Conditions 1, 2, 4, 9, 37, 38, 40, 46 and 47)**

As identified within the PPP application and the accompanying Drainage Assessment and Flood Risk Assessment (DFRA), the development would be served by a public water supply and connect to the public foul drainage network via a new rising main to be installed by the developer of the first AMC housing application. This would connect to the Moray West Water Treatment Treatment Works at Lossiemouth and would avoid discharging into the existing Elgin town drainage network. The development would have a surface water drainage system with appropriately-sized SUDs integrated within the development area involving filter drains, swales and pond or basin type treatment features, together with associated landscape treatment to ensure their integration into green space networks and opportunities for habitat/biodiversity development.

The development would also require to take account of flood risk from the Sey Burn which flows through the lower northern part of the site, and as mitigation, the submitted DFRA recommends that development is directed away from these areas and that proposed finished floor levels are set 1m above specified flood event levels (1 in 200/and or 1 in 1000). The requirement for mitigation measures to address potential surface water flooding, protection of private water supplies/abstractions in the area and for provision of a 10m buffer between development and the water course was also identified.

To address the above, conditions of the PPP require the submission/approval of details for the provision of foul and surface water drainage infrastructure for each development proposal (including connections between the site and proposed point of connection to the foul drainage network) (conditions 9, 37 and 38), construction phase surface water management plan(s) (condition 38), finished floor levels to be set above specified flood event levels (as shown in the submitted Drainage Assessment and Flood Risk Assessment) (condition 39) and mitigation measures to protect private water supplies and the water course (conditions 40, 46 and 47).

The proposed variations requiring the submission and approval of the above information with each application in accordance with the phasing plan would ensure the appropriate provision of drainage infrastructure and address other issues identified regarding flood risk, and protection of private water supply and watercourse, as development proceeds across the site.

The proposed amendments to condition 37 regarding approval of finalised foul drainage schemes for each phase of development and removing the reference to the Elgin Town Network are acceptable. This follows confirmation from Scottish Water to the applicant that the existing pumping station adjacent to Hamilton Gardens (on Covesea Road) has sufficient capacity to serve a proportion of the development at Findrassie (i.e. 100 units). The applicant has confirmed that the Rising Main will be delivered by Barratt North Scotland as part of Phasing Zone E, with design and installation taking several months and that limited connection to the Elgin town network would allow the commencement of initial development whilst the main is being installed. This would involve up to 100 units

connecting to the town network, which would then be diverted to the new Rising Main once installed.

SEPA, Flood Risk Management and Scottish Water have raised no objection to the revised wording. Subject to compliance with the conditions the proposal would accord with the above policies EP5, EP6, EP7, EP10, IMP1 and IMP2.

**Pollution Impacts (EP8, EP9, EP12, IMP1)
(Conditions 45, 50, 53 - 58, 60 - 62)**

The PPP was approved subject to the conditions identified above to address potential pollution impacts on the environment and amenity. These include the requirement for applications to be supported by contaminated land assessments (condition 50), Construction Environmental Management Plans (CEMP) (condition 45), updated noise and construction noise impact assessments (conditions 53, 55 and 58), measures to control external lighting, dust and air control and kitchen ventilation to the school and other commercial premises (conditions 54-57 and 60-62 inclusive).

The CEMPs would address any potential pollution risks from the development that might adversely impact on the environment and amenity, and identify measures to be adopted/implemented after taking into account contractor and construction working practices, including best practice to manage and mitigate the impact of the construction phase upon the environment together with account of materials, soil, waste, surface water run-off (in terms of water quality and quantity) and ecological mitigation measures. The contents of the CEMPs would also contribute towards safeguarding the integrity of Loch Spynie.

For noise, dust, air quality and lighting, the conditions require development to manage and mitigate noise risks and sources during both during construction and/or operation of the development, including the performance of any fixed plant and machinery associated with any proposed non-residential uses. Details to control dust emissions and road traffic an air quality assessment are also conditioned. Details of any external lighting scheme within the development (excluding street lighting), are also required, including that associated with the primary school and the local hub to mitigate against light spill/glare or other visual intrusive impacts which might otherwise detract from the appearance of the development and/or amenity of neighbouring property.

To take account of the proximity of the sub-station to the site, condition 53 of the PPP recommended by the Environmental Health Manager requires the submission/approval of an updated noise impact assessment to address the impact of the sub-station upon the amenity of residential development proposed within the Hub + Central Open Space and North/South Connections where located in proximity to the sub-station. The assessment would be expected to inform the detailed design and site layout details for residential development within this area taking into account measures to mitigate the impact of the sub-station including the determination of an appropriate 'stand-off' distance and additional measures including means of enclosure/acoustic barriers (earth bunds/acoustic enclosures) and landscaping.

The proposed variations requiring the above information to be submitted/approved with each AMC applications for each phase (and in the case of the CEMPs for each phasing zone) would ensure that suitable remediation, pollution prevention and amenity protection measures are considered and implemented as development proceeds across the site. Following consultation SEPA, SNH and the Environmental Health Manager have raised no

objection to the revised wording. Subject to compliance with the conditions the proposal would accord with the above policies EP8, EP9, EP12 and IMP1.

Affordable/Accessible Housing (H8 and H9) (Condition 8)

Policy H8 and associated Supplementary Planning Affordable Housing Guidance requires development on designated and other sites to provide affordable housing, normally 25% of the total development. Condition 8 as currently worded requires this provision across the whole site regardless of phasing and does not take account of the fact that the site will be developed over different areas, by different parties.

Policy H9 requires all proposals for 10 or more units to provide a proportion of wheelchair accessible housing. The associated Supplementary Planning Guidance (SPG) requires 10% of the units that are not part of the affordable housing contribution to be accessible, with 50% delivered as single storey dwellings.

The proposed amendments to condition 8 requiring 25% provision for each application and allowing for the development to be delivered in phases (by different developers) would ensure that the affordable housing remains at a level of 25% of every proposal. The amendments enabling delivery of the development in phases with each application required to include accessible housing provision would also ensure compliance with policy H9.

Following consultation, the Housing Strategy and Development Manager has raised no objection to this revised wording.

Nature Conservation (Policies E1, E2, E3, IMP1 and IMP4) (Conditions 43, 44 and 45)

The site itself is not subject to any site-specific nature conservation designation although there are natural heritage interests of national and international importance present within the wider area, in this case Loch Spynie Special Protection Area, Ramsar and SSSI, located approximately 2 km to the north east.

The Ecological Appraisal accompanying the PPP confirmed that given the nature of the proposed development and separation distance with the interests involved, together with ecological mitigation where recommended, no significant effects were likely to occur. As part of the assessment of the PPP application, SNH and SEPA noted that the site is hydrologically connected with Loch Spynie (via the Sey Burn) and the potential for pollution of surface/ground water from the development to affect the integrity of Loch Spynie and its protected habitats/species. However, with implementation of appropriate pollution prevention measures (as covered by conditions 43 and 45), SNH considered that the development would not lead to significant impacts for the aquatic environment within and adjacent to Loch Spynie. In accordance with the Conservation (Natural Habitats, &c.) Regulations 1994, as competent authority, Moray Council undertook an 'appropriate assessment' at the time which concluded that the development will not adversely affect the integrity of Loch Spynie.

In terms of local wildlife on and near the site, the Ecological Appraisal also considered that no significant adverse effects were likely subject to further survey work to minimise potential impacts and implementation of mitigation/compensation measures (pre-construction surveys and use of suitable site management procedures to protect mammals) (condition 44).

The proposed variations to the conditions requiring applications within the phases to be supported by a written statement confirming mitigation measures to protect the integrity and interests of Loch Spynie SPA, Ramsar Site and SSSI, and the pre-construction survey work/mitigation to protect local wildlife would ensure compliance with the above policies E1, E2, E3, IMP1 and IMP4. SNH and SEPA have raised no objection to the revised wording. Given the nature of the proposed revisions, the previous adopted 'appropriate assessment' and its conclusions remain unchanged for the purposes of the current application. An updated 'assessment' to be adopted referencing the current application is attached at Appendix 2.

Cultural Heritage (BE1, IMP1) (Condition 51)

Known archaeology is present within Area 1 at Myreside i.e. cropmarks of possible enclosures and other indeterminate features, and as such archaeological mitigation is required by condition 51 of the PPP, in this case a programme of archaeological works in accordance with a written scheme of investigation. The proposed variation to the condition requires these works to be undertaken for each phase of development. The Aberdeenshire Archaeology Service has suggested changes to the amended condition 51 to include specific reference to the requirement for a post-excavation research design (PERD) where the need for post excavation analysis is identified, which the applicant has agreed to. On this basis the proposal would accord with policy BE1 and IMP1.

Developer Obligations (IMP3)

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

As part of the consideration of the PPP application, a range of developer obligations were identified and secured by a legal agreement with an agreed schedule of payments related to progress in house completions. The obligations relate to primary education facilities (a 2.5ha serviced site for a primary school), secondary education facilities, healthcare, transportation and sports and recreation facilities.

This Section 42 application allowing for the development to be delivered in phases will require the legal agreement to be modified to reflect the new application details, with the same triggers and levels of contributions. This is subject of a concurrent application submitted under Section 75A.

Conclusion and Recommendation

Planning permission in principle has already been granted for the "mixed use development" within Area 1, R11 Findrassie/Myreside and I8 Newfield, comprising 400-500 houses, primary school and playing fields, employment opportunities, neighbourhood and community hub, open space, landscaping and associated infrastructure, subject to planning conditions and a legal agreement regarding planning obligations.

By seeking to vary some of the conditions of that development, this application seeks to maintain the overall parameters and provisions of the current permission but now within the framework of the submitted phasing plan for the whole Masterplan site. This would allow for development proposals on the site and its associated infrastructure to come forward in a phased manner by permitting the submission/approval of details and supporting information (including triggers for infrastructure requirements). These

proposals would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.

Subject to the development progressing in accordance with the phasing plan and amended conditions as recommended, the proposal accords with planning policy and respects the Findrassie Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

Subject to adoption of the 'appropriate assessment', prior completion of the required legal agreement and conditions as recommended, approval of this application to vary the identified conditions of application 17/00834/PPP is recommended.

REASON(S) FOR DECISION

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

Planning permission in principle has already been granted for the "mixed use development" within Area 1, R11 Findrassie/Myreside and I8 Newfield, comprising 400-500 houses, primary school and playing fields, employment opportunities, neighbourhood and community hub, open space, landscaping and associated infrastructure, subject to planning conditions and a legal agreement regarding planning obligations.

By seeking to vary some of the conditions of that development, this application seeks to maintain the overall parameters and provisions of the current permission but now within the framework of the submitted phasing plan for the whole Masterplan site. This would allow for development proposals on the site and its associated infrastructure to come forward in a phased manner by permitting the submission/approval of details and supporting information (including triggers for infrastructure requirements). These proposals would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.

Subject to the development progressing in accordance with the phasing plan and amended conditions as recommended, the proposal accords with planning policy and respects the Findrassie Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Moray Local Development Plan 2015 - Material Consideration

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 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 ED1: Development of New Employment Land

The formation of new industrial estates, or business related development will require to satisfy the following requirements. Where appropriate, further details will be contained in site designation texts in settlement statements.

Road Access: Junctions with the public road and internal service roads should be built to Moray Council standards for adoption, and provision made for on site and off site parking. Layout proposals should provide for pedestrian and cycle links and provide options for linking with public transport services (eg by provision of bus stops/laybys/shelters as deemed appropriate).

Drainage: All foul drainage must connect to the public sewer, with surface water drainage incorporating appropriate sustainable urban drainage (SUDS).

Landscaping: Requirements for individual sites will be specified in more detail in the relevant settlement designation. Proposals should address issues such as screening; noise barriers; treatment at boundaries/frontages; general visual appearance of the site. Details for maintenance arrangements will be required for landscaped areas.

Design: Where site frontages are highly visible (eg onto a main road, or town gateway site) a high standard of design for front elevations; layout of yard; storage areas; parking must be a consideration.

Designing Out Crime: New estates should be designed so that they provide deterrents to crime, by ensuring sufficient lighting, planting and boundary treatments. Consultation will be carried out with Police Scotland for new proposals. Examples of best practice will be provided to applicants at pre- application stage.

Natural Environment: Provision should be made to ensure appropriate protection and enhancement of the natural environment, and integration with natural heritage on adjacent lands.

Waste Management: Provision should be made for the collection, separation and management of waste materials.

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 IMP1 are 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 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.

R11: Findrassie/Myreside Site

Previously identified as a LONG site, this is now brought forward as the major new land release for Elgin. The site extends to approximately 100 hectares and has capacity for 1500 houses.

A masterplan must be prepared and the development phased to create a distinct identity. The design principles set out in the accompanying map should address the key design principles set out in the accompanying map. . Access to I8 should be considered in conjunction with this site. Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDs provision should be made. Flood risk may constrain parts of the site and a flood risk assessment will require to accompany proposals for development. Water resilient measures should be considered as part of this. A buffer strip of at least 6 metres between the development and the watercourse is required.

A Transport Assessment must be submitted with proposals and early contact with Moray Council Transportation is essential. Off site junction improvements will be required (see TSP's). Connection should be made with access arrangements for R7 and a new/upgraded junction onto the A941 is required. Widening and improvements required to Covesea Road and Myreside Road. Footway, cycleway and public transportation connections required. The impact on the junction TSP31 must be considered and a contribution to any necessary mitigation addressed.

I8: Newfield

This site is suitable for business uses within use Class 4 (business). Development of offices, research and development facilities and light industrial uses in class 4 will be supported. The site should have a high amenity setting and a landscape and planting scheme must be submitted with proposals. This must consider the context of the site and future development at LONG 1. An access strategy for this site should be considered as part of the masterplan for R11 and future connections to LONG 1. A Transport Assessment will be required and the following junctions must be considered TSP 16 and TSP 17.

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems. Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDS provision should be made.

LONG 1: North East

- An avenue of trees should be planted either side of the A941 Lossiemouth Road to provide a mature setting to development and enhance the approach to Elgin.

- Development run off should match pre- development run off and this should be achieved through the use of appropriate levels of Sustainable Urban Drainage. This should negate the impact of increased impermeable areas causing changes in flow peaks of canals. SUDS should be used to treat surface water prior to discharge given the size and sensitivity of the catchment. Full treatment will be required. A drainage impact assessment and full SUDS design will be required at an early stage. The proposal should demonstrate that it will not adversely affect the integrity of 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.

TSP2: A96/Morrison Road junction

Impact on this junction from development of sites R11; BP/OPP needs to be considered in Transport Assessments.

TSP6: Cumming Street/Alexandra Road at Town Hall

Impact on this junction from development of sites needs to be considered in Transport Assessments. The Elgin City for the Future Strategy indicates a signalled junction and at grade pedestrian crossing facilities as preferred infrastructure.

TSP7 A96/Pansport Road

Potential junction improvements or mitigation may be required from developments across Elgin. Impact on this junction from development of sites needs to be considered in Transport Assessments.

TSP9: Morrison Road/Duffus Road

Junction improvements may be required associated with development of R11.

TSP10: Morrison Road/North Street

Further junction improvements may be required here as a result of further development in North Elgin.

TSP11: Westerfolds/Covesea Road

Road improvements likely to be required in association with development of R11.

TSP12: Myreside Road/Covesea Road

Junction and road improvements required for development of site R11.

TSP14: Covesea Road/Lossiemouth Road

Junction improvements likely to be required in association with development of R11 and I8.

TSP15: Lossiemouth Road/Lesmurdie Road

Junction improvement likely to be required, associated with development of R11 and I8.

TSP16: Lossiemouth Road

New Junction, to provide access to R11/I8. Relocation of speed limits; provision of footways to connect with existing network.

TSP17: Lossiemouth Road/Myreside Road

Potential junction improvements associated with R11 and I8.

TSP18: Linksfield Road/Lesmurdie Road

Potential junction improvement required associated with development impact from R11 and I8.

TSP19: Calcots Road/Lesmurdie Road

Potential junction improvement required associated with development impact from R11 and I8.

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,

TSP34: Hay Street/South Street/Northfield Terrace

Developments across Elgin may have to assess impact on this junction. Land would be required to make any significant improvement to this junction, or mitigation required elsewhere.

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
- b) 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.

EP4: Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

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 EP12: Air Quality

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved.

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 T3: Roadside Facilities

The Council will approve applications for roadside facilities if there is a specific locational need; no adverse impact on the built and natural environment that cannot be satisfactorily mitigated; and where appropriate access, parking and safety standards can be met.

Policy T4: Safeguarding Bus, Rail & Harbour Facilities

The Council will promote the improvement of bus, rail and harbour services and facilities within Moray. Development proposals that may compromise the viability of these facilities will not be acceptable.

Where proposals have the potential to impact on the rail network this should be assessed and adverse impacts mitigated.

Diversification of commercial harbours for freight and as operations and maintenance base for offshore renewables will be encouraged. Harbours are identified within settlement statements along with the uses that will be supported.

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 R3: Neighbourhood & Local Shops, Ancillary Retailing, & Recreation or Tourist Related Retailing

Proposals for Neighbourhood and Local Shops, Ancillary Retailing, and Recreation or Tourist Related Retailing will generally be acceptable in the following circumstances:

- a) small shops which are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary
- b) ancillary retail operations to an industrial or commercial business. In this case ancillary is defined as up to 10% of total gross floorspace of the business, and up to 1000 square metres gross total of retail floorspace, where the retail operation is directly linked to the industrial or commercial production and where the goods are produced on the same premises.
- c) farms or farm buildings for the retailing of farm produce, or,
- d) specialist retailing associated with an existing or proposed recreation or tourist development and where the scale and function of the proposal is appropriate to the character of the area.

These types of retailing are exempt from the sequential assessment requirement but may, when requested by the Planning Authority, be required to demonstrate that they will not have an adverse effect on the vitality and viability of the identified network of centres.

In all cases, satisfactory provision must be made to ensure that the environment is not compromised and that there is appropriate access and parking, and other service provision.

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
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Proposed Moray Local Development Plan 2020

The Moray Local Development Plan 2020 is required to set out a vision. The proposed vision is set out below, supported by a series of objectives.

People want to live, work and invest in Moray because of the outstanding quality of life and environment.

Plan Aims/Objectives

- * Apply a placemaking approach to development to create sustainable, welcoming, well connected and distinctive places that are safe, healthy and inclusive.
- * Provide a generous supply of housing land to meet the needs of various sectors of the market.
- * A strong framework for investment that provides sufficient land for development and supports sustainable economic growth (including the tourism economy).
- * Identify and provide for new or upgraded social and physical infrastructure to support the expanding population whilst safeguarding existing infrastructure.
- * Promote the vitality and viability of town centres.
- * Encourage efficient use of land and promote low carbon and sustainable development.
- * Protect and enhance the built and natural environment.
- * Improve resilience of the natural and built environment to climate change.

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;

(i) Character and Identity

- Create places that are distinctive to prevent homogenous 'anywhere' development.
- For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
- Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.
- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

(ii) Healthier, Safer Environments

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

- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect;
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

(v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees,

hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.

- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and connect into wildlife corridors/ green networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of s. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor
- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

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

- (d) Masterplans have been prepared for Findrassie (Elgin), Elgin South, Bilbohall (Elgin), and Dallas Dhu (Forres) and are Supplementary Guidance to the Plan. Further Masterplans will be prepared in partnership for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/ Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. A peer review organised by the Council will be undertaken at the draft and final stages in the masterplan's preparation. Following approval, the Masterplans will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH.

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

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

a) Development proposals will need to provide for the following infrastructure and services:

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

- iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

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

c) **Harbours.**

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

d) **Developer Obligations.**

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

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

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

(i) **Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.

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

i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) **Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

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

DP2 HOUSING.

- a)** Proposals for development on all designated and windfall housing sites must include a design statement and supporting information regarding the comprehensive layout and development of the whole site, addressing infrastructure, access for pedestrians, cyclists, public transport and service vehicles, landscaping, drainage, affordable and accessible housing and other matters identified by the planning authority, unless otherwise indicated in the site designation.

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

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

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

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

c) Housing density

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

d) Affordable Housing

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

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

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

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 44.

e) Housing Mix and Tenure Integration

Proposals for 4 or more housing units must provide a mix of house types, tenures and sizes to meet local needs as identified in the Housing Need and Demand Assessment and Local Housing Strategy.

Proposals must demonstrate tenure integration and meet the following criteria;

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

f) Accessible Housing

Housing proposals of 10 or more units will be required to provide 10% of the private sector units to wheelchair accessible standard, with all of the accessible units to be in single storey form. Flexibility may be applied on sites where topography would be particularly challenging for wheelchair users.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 44.

BUSINESS & INDUSTRY

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

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

- b) **Business Parks.**

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

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

- c) **Industrial Estates.**

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

- d) **Existing Business Areas.**

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

- e) **Other Uses.**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this

purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) **Areas of Mixed Use.**

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

g) **Rural Businesses and Farm Diversification.**

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

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

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

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

h) **Inward Investment Sites.**

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

Proposals must comply with Policy DP1 and other relevant policies.

DP7 RETAIL/TOWN CENTRES

a) **Town Centres.**

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

Within Core Retail Areas (identified on settlement maps, CRA), at ground level, only development for Use Class 1 Shops, Use Class 2 Financial, professional and other services, or Use Class 3 Food and drink will be supported.

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

b) Outwith Town Centres

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

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

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

c) Neighbourhood Retail.

Small shops that are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary will be supported. Depending on scale, proposals may be required to demonstrate that they will not have an unacceptable adverse impact on the vitality and viability of the network of town centres (Table 6), by a Retail Impact Assessment or Retail Statement. Within a neighbourhood one unit of up to 400m² designed to meet the day to day convenience needs of the neighbourhood will be supported. Other small units of up to 150m² that contribute to creating a mix of uses in a neighbourhood centre/hub will be supported. This could include small retail uses (Class 1 non-food), financial and professional services (Class2) and cafes and small restaurants (Class 3). Neighbourhood hubs/centres should aim to contribute to the sense of community and place, the sustainability of an area, reduce the need to travel for day to day requirements and provide adequate parking and servicing areas.

Change of use of established or consented neighbourhood retail units will only be supported where it can be demonstrated that active marketing has failed to find a retail use for the premise. For a change of use to be considered, the premises must

have been vacant and actively marketed for a minimum of three years at an appropriate market rent/value. Where the unit is part of a consent for wider development, the three year marketing period will be counted from the completion of the development as a whole i.e. change of use of a retail unit will not be considered half way through completion of a development or in the three years after the completion of the whole development.

d) Ancillary Retailing.

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

e) Outwith Settlement Boundaries.

Outwith settlement boundaries, proposals for small scale retail development will only be supported if these are ancillary to a tourism or agricultural use. Small scale extensions to existing retail activity will only be supported where this does not undermine the vitality and viability of the network of town centres (Table 1).

Table 1 Moray Town Centres

EP1 NATURAL HERITAGE DESIGNATIONS.

a) Natura 2000 designations.

Development likely to have a significant effect on a Natura 2000 site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura 2000 site may be approved where:

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

For 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 the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations.

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

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

e) Other protected species.

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the

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

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

EP2 BIODIVERSITY

All development proposals must retain, protect and enhance features of biological interest and provide for their appropriate management. Developments must safeguard and connect into wildlife corridors, green/blue networks and prevent fragmentation of existing habitats.

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

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

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

Where development results in the loss of natural habitats of ecological and amenity value, compensatory habitat creation will be required on an alternative site in Moray.

EP5 OPEN SPACE.

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designation in rural groupings to anything other than an open space use will be refused.

Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused. The only exceptions are where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners, excluding housing, or

for a site specific opportunity identified within the settlement statement. Where one of these exceptions applies, proposals must;

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

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

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

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

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

b) Green Infrastructure and Open Space in New Development.

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

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

i) Accessibility Standard.

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

ii) Quality Standard.

Across a development open space must achieve a very good quality score of 75%. Quality will be assessed by planning officers against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected.

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

Attractive and Appealing Places.

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.

- Connects with wider blue/green networks Provide connections to existing green/bue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

Promotes activity, health and well being.

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

Safe, Welcoming and contributing to Character and Identity.

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

iii)Quantity Standard.

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

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

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

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

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

EP8 HISTORIC ENVIRONMENT.

a) Scheduled Monuments and National Designations.

Where a proposed development potentially has a direct impact on a scheduled monument, the written consent of Historic Environment Scotland is required, in addition to any other necessary consents.

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.

b) Local Designations.

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.

a) Flooding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c) **Water Environment**

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 104). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP13 FOUL DRAINAGE

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

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

EP14 POLLUTION, CONTAMINATION & HAZARDS.

a) Pollution.

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

b) Contamination.

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

- i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment, and

- ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites.

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

R11 Findrassie 100 ha 1500 units

- Proposals must comply with the Findrassie Masterplan Supplementary Guidance. The Masterplan layout is shown on page 169.
- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of houses to mains water and sewerage.
- A Transport Assessment is required which must assess the impacts on junctions TSP 30 and 31 to determine the level of developer obligations for any necessary mitigation. The scope of the assessment must be agreed with Transport Scotland and the Moray Council Transportation.
- Off site road improvements are required, see Roads Infrastructure Improvements (TSPs) within the Action Programme Appendix 1 for a full list.
- Connections to R10 and new junctions onto A941 required.
- Widening and improvements required to Covesea and Myreside Road.
- Footway, cycleway and public transportation connections required to access local services, including the provision of new bus laybys on the A941.
- Provision of open and green space must be provided in compliance with the masterplan. A Neighbourhood Park and series of Pocket Parks must be provided in compliance with the masterplan. Allotments must be provided.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- The site may be impacted by the A96 dualling and development may require to take into account the preferred A96 dualling route.

I8 Newfield Industrial Estate

- Proposals must comply with the Findrassie Masterplan Supplementary Guidance. The Masterplan layout is shown on page 169.

- Suitable for business uses within use Class 4 (Business) or Class 5 industrial uses that are compatible with surrounding uses which is predominantly residential.
- High amenity setting required.
- Transport Assessment required. The impacts on junctions TSP9, 12, 17, 20 and 21 must be assessed and addressed.
- Connections to the adjacent MU2 and LONG 1A sites must be safeguarded.
- Phase 1 Habitat Survey required.
- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of buildings to mains water and sewerage should avoid such changes.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- No development to occur within 6m of the watercourse.
- The site may be impacted by the A96 dualling and development may require to take into account the preferred A96 dualling route.

MU2 Lossiemouth Road (NE) 7 ha Business, live work units

- Proposals must comply with the Key Design Principles set out in Figure 1.2 at site R12.
- Suitable for business uses within use Class 4 (Business) or light industrial uses that are compatible with surrounding uses. Up to 2ha of the site can be developed for live work units/workshops.
- The layout and design must integrate with the Findrassie Masterplan. This includes in terms of access, character, landscaping provision and open space provision.
- A Landscape and Planting Strategy is required.
- A gateway that creates a sense of arrival into Elgin must be created in conjunction with R12.
- Advance planting of avenue trees along A941 required.
- Access must be taken through site I8 to the south.
- Transport Assessment required. The impacts on junctions TSP9, 12, 17, 20 and 21 must be assessed and addressed.

- Flood Risk Assessment (FRA) required.
- Noise Impact Assessment required due to proximity to A941.
- Depending on business uses proposed noise and air quality may need assessed.
- A Drainage Impact Assessment (DIA) and full SUDS design will be required at an early stage. Development run off must match pre-development run off by using appropriate levels of SUDS. SUDS must be used to fully treat surface water prior to discharge given the size and sensitivity of the catchment.
- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of buildings to mains water and sewerage should avoid such changes.
- A buffer strip of at least 6 metres between the watercourse and development is required

Appendix 2

Appropriate Assessment for Application 19/01085/APP under S42 to vary conditions of planning permission in principle 17/00834/PPP: Impact of proposed mixed-use development as proposed at Findrassie upon Loch Spynie Special Protection Areas, Ramsar sites and Site of Special Scientific Interest

Nature 2000 sites include Special Protection Areas (SPAs), Ramsar sites and any component Site of Special Scientific Interest (SSSI). The Conservation (Natural Habitats, &c.) Regulations 1994 require that certain proposals which are likely to have a significant effect on a 'Natura 2000' site must be subject on 'Appropriate Assessment' by a competent authority. These requirements apply to applications for planning permission and planning permission in principle, including applications under Section 42 to vary conditions.

SNH previously advised that, as competent authority, Moray Council undertake an 'appropriate assessment' for the application for planning permission in principle for a mixed use development as described on application 17/00834/APP [the development] because the proposal is likely to have a significant effect on the Loch Spynie which is designated as a SPA, Ramsar and SSSI site. This requirement applies to the current S42 application 19/01085/APP under consideration.

In undertaking this assessment, account has been taken of

- the development as described within application 19/01085/PP including the application form, drawings and supporting information including the applicant's Ecological Appraisal (30 May 2017) and additional correspondence regarding inputs for Loch Spynie (submitted in support of application 17/00834/PPP);
- the Council's Screening Opinion (16/01374/SCN) as adopted for this development, wherein no significant environmental effects are considered likely after taking into account the character and location and potential characteristics of impact; and
- all consultation responses received on the application 19/01085/APP (and 17/00834/PPP), including those from SNH, SEPA and Moray Flood Risk Management (MFRM).

In terms of the Regulations and where a development proposal unconnected with the nature conservation management of a Natura 2000 site is likely to have a significant effect on that site, the competent authority must undertake an "appropriate assessment" of the implications for the development upon the conservation interests for which the site has been designated. The assessment extends to proposals outwith the boundary of the Natura 2000 site in order to determine their implications for the interests protected within the site.

As competent authority, Moray Council can only agree to the proposal under Regulation 48 after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, and there are no alternative options, the proposal can only be allowed to proceed if there are imperative reasons to over-ride public interest including those of an economic or social nature, after referral to Scottish Ministers.

Loch Spynie

European Interests

Under the EC Directive 79/409/EEC, Loch Spynie is classified as a SPA based upon its internationally important populations of *wintering greylag geese*. This is also an SSSI feature.

Loch Spynie is designated under the Ramsar Convention for its populations of *wintering greylag geese* and its range of vegetation communities representing all stages of hydro-seral succession (open water colonisation by vegetation) and its vascular plants, including nationally scarce plant species. The loch itself is an example of a meso-eutrophic loch surrounded by large area of open water transition mire (including SSSI features such as standing freshwater habitats; vascular plants; fen and swamp communities, and fen woodland).

Loch Spynie is designated as an SSSI based upon *greylag geese* (as SPA above), plant species and as a eutrophic loch (as Ramsar above), and breeding birds.

Conservation objectives for qualifying interests:

Conservation objectives for Loch Spynie SPA are to avoid deterioration of habitats of, or significant disturbance to, the qualifying species (*greylag geese*), thus ensuring that the integrity of the site is maintained.

For the Ramsar designation, the conservation objectives for Loch Spynie are to avoid deterioration of, or significant disturbance to, qualifying habitats (including the meso-eutrophic loch surrounded by large area of open water transition mire), the habitats of qualifying species (*wintering greylag geese* and nationally scarce plant species), thus ensuring that the integrity of the site is maintained and makes an appropriate contribution to achieving favourable conservation status for each qualifying interest.

National Interests

Under the Nature Conservation (Scotland) Act 2004 (Section 12), consultation with SNH is required where development is on, or affects, any land which is, or forms, part of an SSSI, and when exercising functions which might affect an SSSI, to further the conservation and enhancement of the protected natural features specified in the SSSI and maintain and enhance the representative nature of the SSSI as a whole.

The appraisal for Natura 2000 interests (SPA and Ramsar) covers all interests of the SSSI except breeding bird interests, as a result of the habitats of Loch Spynie. The appraisal of the impact on habitats therefore indirectly covers this interest.

Requirement for Appropriate Assessment

Appropriate assessment is required in relation to the potential impact of the development upon Loch Spynie SPA, Ramsar and SSSI interests. The development is considered to be hydrologically connected with Loch Spynie via the Sey Burn which runs through the development site and ultimately discharges to Loch Spynie via the Spynie Canal. In this case, and without mitigation, the potential pollution of surface and ground water within and adjoining the development has the potential to impact upon the aquatic environment of Loch Spynie.

There are no other Natura sites which could be impacted upon by this proposal. The development site itself is not subject to the Natura 2000 designations and does not directly affect, or impact upon, Loch Spynie.

Indirect effects upon Loch Spynie relate to (a) the potential increase in sediment and/or other pollution effects during construction activity occurring on the development site, and (b) any potential change in surface water characteristics including greater volumes of water affecting rates of run-off and sediment reaching any watercourse including the Sey Burn which discharges ultimately to Loch Spynie. These indirect effects may occur individually because of this development or cumulatively in conjunction with other developments where surface waters discharge to the Sey Burn, for example from residential development on the adjoining Hamilton Gardens site, albeit assessment of water quality and quantity issues arising from that development were not subject to appropriate assessment.

Based on the requirements of the Habitat Regulations (Regulation 48):

i) **Is the development directly connected with or necessary for site management for nature conservation of Loch Spynie?**

No. The proposed development is to provide a mixed-use development as defined under application 19/01085/APP. Land at Findrassie is the subject of a major land allocation for residential and employment use, designated as Elgin R11 and I8 within the Moray Local Development Plan (MLDP) 2015. This land area is also subject to the Supplementary Guidance: Findrassie Masterplan, as approved on 1 December 2015. From the latter, the vision for this designation/land release, including the current planning application, is to provide a new neighbourhood community on the northern edge of Elgin. The proposal is neither directly connected nor needed for the nature conservation purposes and management of Loch Spynie.

ii) **Is the development likely to have a significant effect on Loch Spynie?**

Yes. The development does not have a direct effect but because it is hydrologically connected with Loch Spynie through the Sey Burn.

With the potential for discharges from within the development area to the Sey Burn there is a potential risk of sediment and other pollutants to discharge to that watercourse during the construction process, with or without mitigation measures being in place, for example from any earth moving works and operations to re-contour the landform or from use of construction plant and machinery and storage and movement of materials, etc. within the site. During the operational period, there is potential for changes in surface water characteristics resulting from increased volume of water discharging to the Sey Burn affecting rates of run-off and sediment and pollution effects.

A further (indirect) effect upon breeding birds is the disturbance and displacement of bird species and habitats during construction and operation of the development in terms of loss of land, a mixture of arable and improved grassland, to accommodate the development. This habitat can provide suitable foraging opportunities for a variety of breeding birds, including greylag geese.

Post-construction, the increase in human population within the local area may give rise to an increase in recreational use of the surrounding countryside.

From consideration of the development, the need to address any significant effect has been identified by:

- SNH, who confirm that there is a potential for adverse effects to occur upon the aquatic environment at Loch Spynie. Notwithstanding that planning permission in principle is sought for the development, there is a need to address and manage water quality and quantity during both construction and operation of the development;
- SEPA, who highlight the need to consider pollution prevention, site waste management and other environmental issues including the management of surface water during both construction and operational stages of the development, notably in terms of water quality aspects and impacts upon the water environment. Consideration is also required over the risk of flooding from all sources including ground and surface water to mitigate rather than exacerbate the risk of flooding to the development or the surrounding area;
- MFRM, in terms of information to address proposed/required operational and construction SUDs arrangements including attention to run-off and attenuation rates, overland flows, etc. to address water quantity and flooding issues associated with the development; and
- Submissions from the applicant, which highlight the need to address water quality and quantity issues within the development: the Drainage Assessment and Flood Risk Assessment, the Ecological Appraisal and other supporting information highlight the need to consider the impact of the development upon the integrity of Loch Spynie.

Effects on Loch Spynie

Greylag geese depend on the Loch Spynie waterbody being present and providing a roost site (shelter and safety) from approx. September – April annually. They do not depend on the waterbody for food so water quality is less likely to be an issue unless water quality affects the extent of open water versus marginal habitats.

Any potential impact on geese is likely from expansion of marginal vegetation, loss of water from the loch, significant disturbance (noise and human activity) when geese are present, and sediment and nutrient built-up on terrestrial habitats.

With any water body, natural succession is an on-going process: Loch Spynie demonstrates the transition from open water habitats through to woodland, it is relatively shallow and lends itself to expansion of marginal habitats. Sediment and nutrient inputs influence change at Loch Spynie. Increased sediment can help to establish areas where, with reduced water depth, reed growth and encroachment can occur. Increases in nutrient levels increase biomass accumulations, thus increasing opportunities for vegetation to establish. Increased eutrophication leads to an increased rate of encroachment of vegetation on the waterbody.

Natural fluctuations in water levels occur both within the loch and surrounding wetlands. However, this development does not propose any work at, or near, Loch Spynie resulting in a loss of water from the loch, so this is not of concern. A breach of the embankment dams holding water within the loch would have consequences

upon the qualifying interests of the site but no works are proposed near Loch Spynie as part of this development, hence no significant disturbance to geese is expected.

In relation to additional Ramsar interests, the nationally scarce plant species present are depend on the presence of the waterbody and wetland habitats. Regular inundation helps maintain the wet habitats, inhibiting growth of species that prefer drier conditions. Loch Spynie is a meso-eutrophic loch dependent upon the hydrology within, and acting upon, the site to maintain a variety of habitats. Loch Spynie is naturally susceptible to becoming too rich to maintain the important interests.

Increased nutrients and sediments from external sources would increase the amount of marginal vegetation, help other species that do not normally tolerate wet conditions to become established, and reduce the open water habitat. Whilst naturally eutrophic, additional nutrient and sediment would enter the loch from existing drainage including the Sey Burn which has a direct route into the loch unchecked by control structures. Whether occurring under normal conditions and/or in larger quantities during increased run-off and flood conditions, such action could strip sediments on the bottom of the loch, cause resuspension of nutrients.

iii) Can it be ascertained that the Area 1 proposal at Findrassie will not adversely affect the integrity of Loch Spynie?

Yes. Notwithstanding the 'in principle' nature of the current application with no specific design and site layout details, the following can be noted:

- the MLDP 2015 includes policies intended to safeguard the natural (and built) environment including Policies E1 and E2 which seek to safeguard nature conservation interests and species, Policy E8 which defines the boundary for expansion of Elgin; Policy E9 which defines a 'Countryside around Towns' buffer between Elgin and Loch Spynie. In addition, Policies IMP1, EP9, EP8, EP7, EP6 and EP5 refer to matters regarding contamination, pollution, flooding, water engineering and drainage which are all relevant. The latter requires provision of on-site SUDs as part of any development, thereby helping to protect against changes in drainage, run-off and water quality and quantity within the catchment;
- notwithstanding the loss of land for foraging opportunities for breeding birds, the development site is not known as feeding grounds for geese. The applicant's submissions include correspondence from the RSPB which indicates that, after their contact with the "Murray County Bird Recorder" (*sic*), they are not aware of significant use of the development/Findrassie site by geese;
- indirect disturbance to geese could occur from increased recreation activity including dog walking. However, there are no specific proposals to improve access for recreation at Loch Spynie included and given the existing (boggy) ground conditions, any increase in recreational activity is unlikely to lead to disturbance in ornithological interests at Loch Spynie.
- to minimise impacts upon the water environment, SEPA *inter alia* recommend that a Construction Environmental Management Plan (CEMP) be prepared to identify all construction pollution and environmental impacts and all mitigation measures to be adopted/implemented including construction working practices and surface water quality issues.

Additionally, full details of all SUDs are required during the operation phase(s) of the development together with all engineering activities within the watercourse, provision for buffers between development and the watercourse and measures to mitigate flood risk, etc; and

- MRFM require details of all SUDs infrastructure to be provided during both construction and operation of the development particularly to address water quality issues including the capacity of infrastructure to accommodate increased run-off from the site, on-site attenuation of run-off and regulation over the rate of discharge from the site; and
- SNH advise that the proposal would not adversely affect the integrity of Loch Spynie SPA and Ramsar and SSSI protected habitats and species provided appropriate mitigation is implemented. This requires identification of all measures to address water quality and quantity during construction and operational of the development, ensuring river engineering works do not result in pollution, implementation of a CEMP etc, to ensure that internationally and nationally important nature conservation interests are duly recognised.

Furthermore, as part of any recommendation to grant permission under S42, conditions to address the above matters during both construction and/or operational stages of the development, including a requirement that any (subsequent) development address, demonstrate that no unacceptable adverse effects occur upon the Loch Spynie SPA, Ramsar and SSSI. Information to address these condition(s) will also be subject to future consultation with SNH, SEPA and MFRM who will have the opportunity to consider and confirm whether the information is acceptable in addressing Loch Spynie and other interests. Thereafter, once details are agreed, the terms of the permission require that the applicant to implement the development in accordance with the agreed details.

Conclusion

Loch Spynie is designated for internationally and nationally important nature conservation interests, as reflected in its status as Loch Spynie SPA, Ramsar, and SSSI.

The proposed mixed-use development as defined at Findrassie (Area 1) is not needed for nature conservation purposes, it will not directly affect Loch Spynie but it is hydrologically connected to Loch Spynie via the Sey Burn which runs through the proposed development area. Together with potential for increased run-off, the potential risk of sediment or other pollutants on surface and ground water within and/or adjacent to the development has the potential to alter the existing eutrophic state of Loch Spynie. Its nutrient rich conditions favour vegetation growth and open water that it is important in providing a safe roost for wintering greylag geese and support a variety of designated species. Urban pollution from this (and other) development has the potential to alter the existing balance of conditions, accelerating vegetation growth at the expense of open water.

Subject to conditions, including those recommended by consultees, to mitigate and manage surface water quality and quantity, etc. together with adoption, commitment to and implementation of all required/proposed mitigation measures, the proposal will

not adversely affect the integrity of Loch Spynie SPA, and the habitats and species protected by its Ramsar and SSSI status.

Recommendation

It is recommended that this assessment be adopted by the competent authority, Moray Council to enable Moray Council, as planning authority to proceed and determine application 19/01085/APP.