

18/00811/APP
28th August 2018

Development of a 4.7 hectare site to the north of the existing distillery to deliver 11 new cask warehouses new access formation of pond and associated landscaping at Land Adjoining Benromach Distillery Waterford Road Forres for LDN Architects LLP

Comments:

- A SITE VISIT has been carried out.
- Application is a “major” development as defined under the Hierarchy Regulations 2008 (and the approved Scheme of Delegation) because the gross floorspace of the development exceeds 10,000 sqm and/or the site area exceeds 2 ha.
- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes.
- No objections/representations received.

Procedure:

- None.

Recommendation Grant Planning Permission - Subject to the following:-

1. Prior to the commencement of any part of the development the following details shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
 - i) Either, written confirmation to be provided that there will be no barriers or gates on the proposed access leading to Waterford Road or, provision of details of any security barrier or gating at the proposed access to the development including setback distance from the road;
 - ii) Details of any external signage proposed at the boundary of the site fronting onto the public road including siting, dimensions and design;
 - iii) A detailed drawing (scale 1:500 min) shall be submitted showing provision for a dropped kerb crossing of the proposed access onto Waterford Road together with tactile paving, landscaping, fencing, gating and visibility of the crossing on the approach to the crossing from the access;
 - iv) a detailed plan (scale 1:500 minimum) showing provision of a 2.0 metre footway on the northeast side of Waterford Road from a point opposite the north side of the new link road and extending southwards to connect with the existing footway. Provision also for dropped kerb crossing and tactile paving to

provide crossing to the west side of Waterford Road at three points, one to the south of Waterford Circle and one each to the north and south sides of the new link road; and thereafter the footway and crossings must be completed in accordance with the approved plans prior to the commencement of the second warehouse within the development.

- v) Detailed plan(s) (scale 1:500) showing the existing and proposed road drainage on Waterford Road for the full extent of the site frontage shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority and thereafter the roads drainage infrastructure shall be provided in accordance with the approved details prior to the commencement of any other part of the development and thereafter the proposals shall be completed in accordance with the approved details.

Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interests of road safety, an acceptable form of development and the provision of information currently lacking from the submission.

- 2. Notwithstanding the details submitted (which are not accepted) prior to any development works commencing the following detailed drawing shall be submitted for approval by the Planning Authority. The detailed drawing shall show (scale 1:500 minimum scale) a visibility splay 4.5 metres by 70 metres in both directions at the proposed junction onto Waterford Road, showing boundary walls/fences/hedges set back behind the required visibility splay, and a schedule of maintenance for the splay area shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority and thereafter, the visibility splay shall be provided in accordance with the approved details and maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.

Reason: In the interest of road safety and the provision of information currently lacking from the submission.

- 3. Notwithstanding the details submitted which are not accepted, prior to the commencement of any part of the development a detailed phasing plan for the proposed development including the warehouses and the road infrastructure to be provided within each phase shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority and thereafter the development shall be completed in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interest of road safety and the provision of information currently lacking from the submission.

- 4. Prior to commencement of each phase of the development a Construction Traffic Management Plan shall be submitted for approval by the Planning Authority in

consultation with the Roads Authority and thereafter the construction works shall be completed in accordance with the approved Construction Traffic Management Plan.

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

5. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 - 1900 hours, Monday to Friday, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: To control/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

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

The programme of works must be submitted to and approved in writing by the Council, as Planning Authority in consultation with Aberdeenshire Council Archaeology Service.

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

7. Prior to the commencement of development a site specific Construction Environment Management Plan (CEMP) shall be submitted to, and approved in writing by, the Council, Planning Authority in consultation with SEPA. All works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In order to prevent pollution of the environment and ensure the sustainable management of materials and waste.

8. All landscaping and mitigation planting shall be implemented and maintained in accordance with the approved landscaping plan entitled 'Landscape Proposals Plan drawing number 981 BD LP 01 Rev A' and accompanying documents entitled

‘Outline Landscape Specification and Maintenance - May 2018, prepared by landscape architects Horner and MacLennan’ and ‘Arboricultural Method Statement dated 24th May 2018, prepared by ROAVR Environmental Consultants.’

Reason: In order to ensure the provision of the landscaping to the development to minimise the visual impact on neighbouring residences and the wider landscape.

9. Prior to the commencement of development, a detailed phasing plan for the proposed development showing the abovementioned landscaping and mitigation planting to be provided within each phase shall be submitted to and approved by the Council, as Planning Authority; and thereafter the development shall be completed in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that acceptable landscaping and mitigation planting is provided for each phase of the development as detailed phasing information is currently lacking from the submission.

10. Prior to the commencement of development, details of all artificial lighting to be installed on the site for each phase shall be submitted to and approved by the Council, as Planning Authority. This shall be designed and sited to minimise the potential for light pollution, glare effect and nuisance to protect the amenity of surrounding neighbouring housing. The approved lighting arrangements shall be installed prior to each respective phase is complete or building within that phase is occupied.

Reason: To ensure the provision of an acceptable form of development and to protect the amenity of nearby residential premises, as these details are currently lacking from the application.

11. All surface water drainage infrastructure hereby approved shall be installed in accordance within that detailed within the approved drainage layout plan, accompanying Drainage Impact Assessment and SUDS Strategy dated August 2018 (prepared by Caintech) and additional supporting drainage information unless otherwise agreed with the Planning Authority, in consultation with the Flood Risk Management Section.

Reason: To ensure the provision of acceptable drainage infrastructure to the development.

12. Prior to the commencement of development, a detailed phasing plan for the proposed development including the warehouses and drainage infrastructure (as detailed within the abovementioned DIA and SUDS Strategy) to be provided within each phase shall be submitted to and approved by the Council, as Planning Authority in consultation with the Flood Risk Management Section; and thereafter the development shall be completed in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority in consultation with the Flood Risk Management Section.

Reason: To ensure the provision of acceptable drainage infrastructure for each phase of the development, as detailed phasing information currently lacking from the submission.

13. No development shall commence until a Construction Phase Surface Water Management Plan (CPSWMP) has been submitted to and approved in writing by the Council, as Planning Authority (in consultation with the Moray Flood Risk Management Section), and all work shall be carried in accordance with the approved CPSWMP.

Reason - In order to ensure that surface water from the development is dealt with in a satisfactory manner that avoids flooding and pollution, and as these details are currently lacking from the current application.

Reason(s) for Decision

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

The proposed warehouse development, being located on prime agricultural land immediately outwith the Forres settlement boundary and within the Forres Countryside Around Towns (CAT) designation would represent a departure from Policies ER5, E9 and E10, but can be supported having regard to the nature, scale and location of the proposed development which would contribute to economic growth and not prejudice the objectives of those policies. In all other respects, including landscape and visual, transportation, drainage, pollution prevention, cultural and natural heritage, etc. interests, the proposal is considered to accord with the provisions of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

The BUILDING STANDARDS MANAGER, has commented that:-

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

The TRANSPORTATION MANAGER has commented that:-

Before commencing development, the applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads. The applicant will be required to provide technical information, including drawings and drainage calculations, 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 constructionconsent@moray.gov.uk

Before commencing development the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing constructionconsent@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 road. Any requirement for a Road Safety Audit will be determined through the Roads Construction Consent process or subsequent to the road construction prior to any road adoption.

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

If requires, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by e-mailing road.maint@moray.gov.uk

Street lighting will be affected by the proposed development and the applicant should contact Moray Council Street lighting to discuss their proposals.

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.

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

The developer must contact the Roads Authority Roads Maintenance Manager (West) at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7349 to discuss the proposals.

The ENVIRONMENTAL HEALTH MANAGER commented that:-

Artificial lighting associated with the development shall be suitably controlled so as not to give rise to a statutory nuisance in terms of the Environmental Protection Act 1990.

Adequate provision should be taken to ensure that any dust arising from the construction phase does not give rise to a statutory nuisance in terms of the Environmental Protection Act 1990.

SCOTTISH NATURAL HERITAGE has commented that:-

Nesting bird informative.

SCOTTISH WATER has commented that:-

See attached consultation response dated 3rd September 2018.

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See attached consultation response dated 17th September 2018.

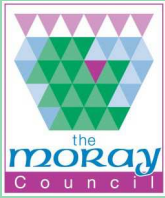
SCOTTISH NATURAL HERITAGE has commented that:-

See attached consultation response dated 25th September 2018.

SCOTTISH AND SOUTHERN ELECTRICITY NETWORKS has commented that:-

Please refer to Health and Safety Guidance Note GS6 – Working in the vicinity of overhead lines and HS (G) 47 – Working in the vicinity of underground cables. (SSE Contact details – Jodie Brown (Jodie.brown@sse.com) tel.01224 667254.)

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
JL958P003	A	Road layout plan
JL958P004	A	Vehicle swept path analysis - sheet 1
JL958P005	A	Vehicle swept path analysis - sheet 2
J2349		Section details
F1618 L(2-)-103		Elevations and floor plan
F1618 L(2-)-104		Elevations and floor plan
F1618 L(2-)-101 A		Location plan
F1618 L(2-)-102 E		Site plan
981 BD LP 01	A	Landscape proposal
J1958_P002_A		Drainage layout plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/00811/APP

Site Address:

Land Adjoining Benromach Distillery
Waterford Road

Applicant Name:

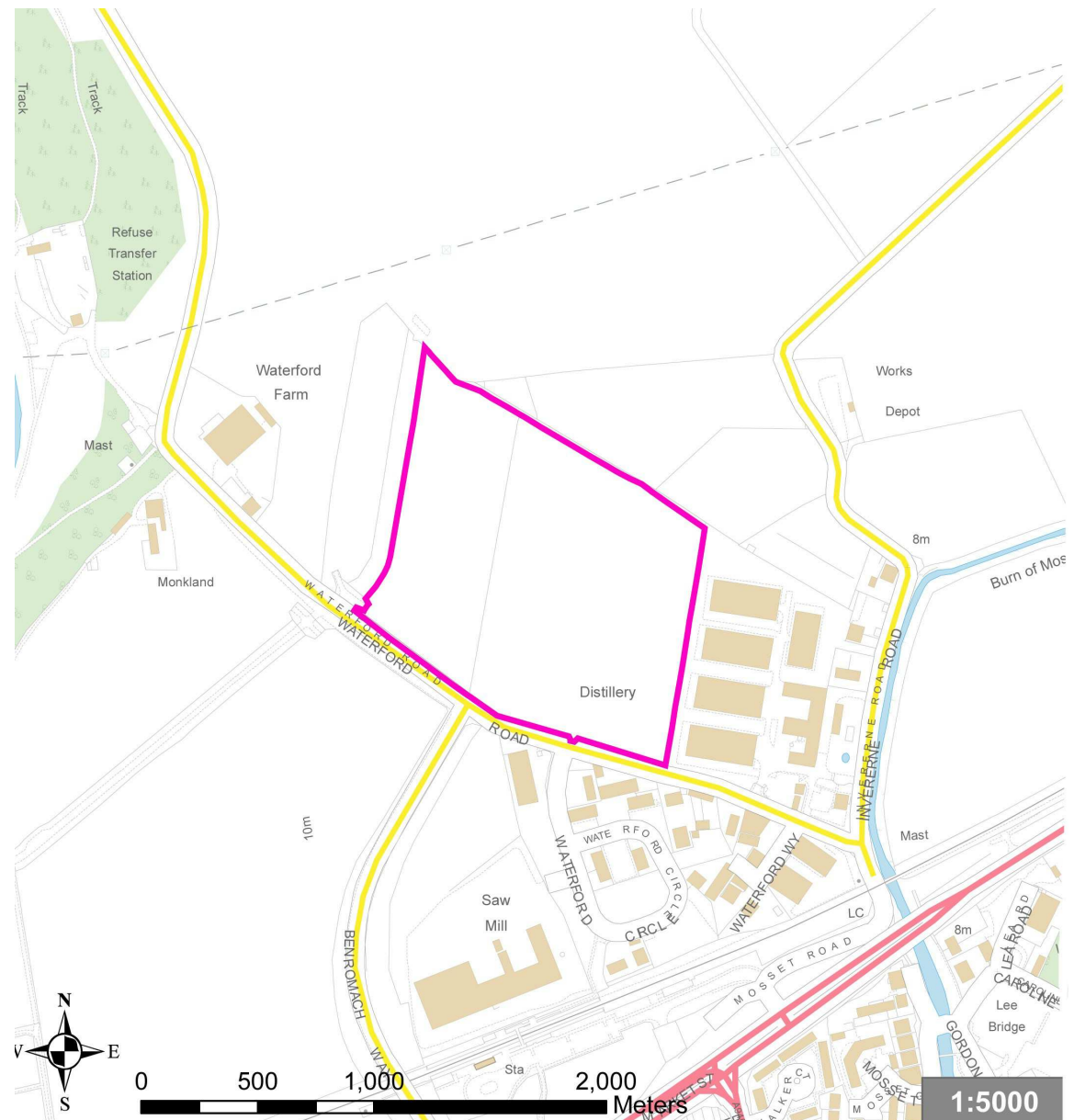
LDN Architects LLP

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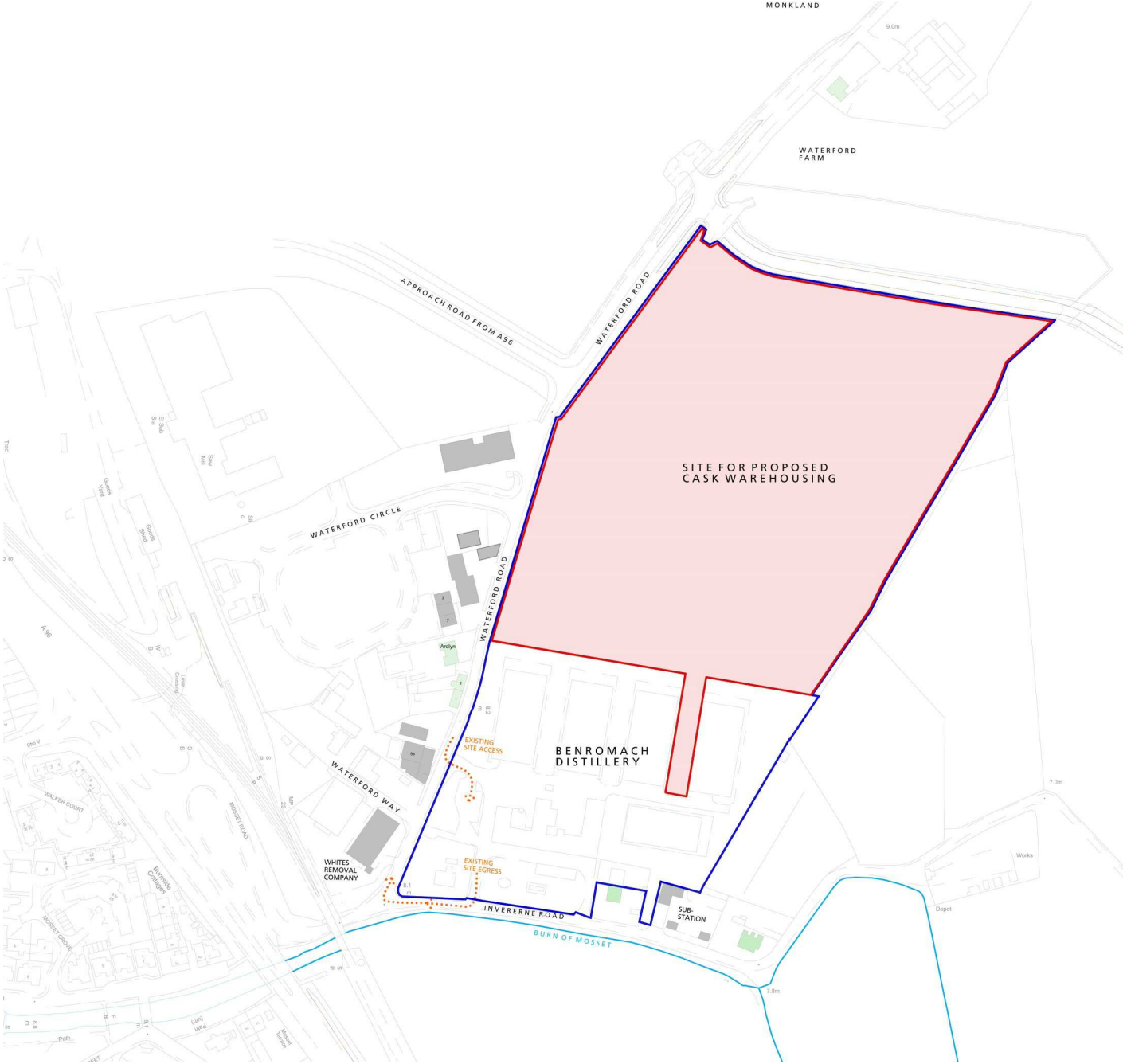
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Location Plan



Site Location



The site plan illustrates the proposed development at Burn of Mosset, bounded by Waterford Road to the north and east, and Inverne Road to the south. The plan includes the following details:

- Boundaries:** The boundary of the application is marked with a red line. The boundary of ownership is indicated by a blue line. A flood relief embankment is shown along the northern boundary.
- Proposed Development:** The plan shows 18 proposed buildings, numbered 1 through 18, with their dimensions and orientations. The buildings are arranged in a grid-like pattern, with some buildings having multiple units (e.g., 14, 15, 16, 17, 18).
- Existing Structures:** Existing buildings are shown in grey, including a building labeled 'Burn of Mosset' and a building labeled 'Burn of Mosset'.
- Access:** New access points are marked with green dashed lines and labeled 'NEW ACCESS'. Existing access points are marked with orange dashed lines and labeled 'EXISTING ACCESS'.
- Other Features:** A pond is located near the northern boundary. A 'Boundary - Post & Wire Fence' is shown along the southern boundary. A 'Burn of Mosset' is shown along the southern boundary.
- Approach Road to A96:** The approach road to the A96 is shown to the west of the site.
- Waterford Way:** Waterford Way is shown to the south of the site.
- Inverne Road:** Inverne Road is shown to the south of the site.
- Dimensions:** Dimensions for buildings and setbacks are provided in millimeters (mm). For example, building 14 has dimensions of 74,600mm by 29,975mm.
- Orientation:** The plan includes a north arrow pointing towards the top right.
- Scale:** A scale bar is provided, indicating a distance of 100 meters.

Ard

Line graph showing the change in the number of people in the population aged 65 and over from 1990 to 2020 for various countries. The Y-axis represents the number of people in millions, ranging from 0 to 100. The X-axis represents the year, from 1990 to 2020. The graph shows that the number of people aged 65 and over is increasing in all countries shown. Japan has the highest number of people aged 65 and over, starting at approximately 35 million in 1990 and reaching approximately 45 million in 2020. Italy starts at approximately 25 million in 1990 and reaches approximately 35 million in 2020. The United Kingdom starts at approximately 15 million in 1990 and reaches approximately 25 million in 2020. The United States starts at approximately 10 million in 1990 and reaches approximately 20 million in 2020. China starts at approximately 5 million in 1990 and reaches approximately 15 million in 2020. India starts at approximately 2 million in 1990 and reaches approximately 10 million in 2020. The rate of increase is highest for India and lowest for the United States.







PLANNING APPLICATION: 18/00811/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

- Planning application to erect 11 new cask warehouses (Class 6 Storage and Distribution) and associated new vehicular access, infrastructure, SUDs pond and landscaping on land adjacent Benromach Distillery, Waterford Road, Forres.
- The warehouses, comprising a mix of double and triple cell buildings would have gross floor spaces ranging from 1,629sqm up to 3,027sqm (with a combined total of 28,688sqm), and material finishes of light grey metal cladding and red timber doors. The buildings would measure 29.9m or 43.0m in width, range in length from 54m to 98.8m (8 variations) and have a ridge height of 10.9m.
- Associated works include the construction of access roads, hardstandings, SUDS drainage (roofwater soakaways (stone filled filtration trenches) and road filter drains discharging to an infiltration basin).
- External lighting would be similar to that already installed at the existing warehouses. This would include movement activated floodlighting which would be attached to each of the buildings (with potential for very occasional switch-on during maintenance work), along with emergency escape lighting and PIR (passive infrared) activated lamps at doorways. There will be no street lighting in the roadways.
- Proposed landscaping proposals would comprise tree/hedgerow planting, species rich/amenity grass around the site perimeter and between each of the rows of buildings, and removal of a row of Poplar trees and small number of others within the existing distillery complex.
- Access would be via the new proposed access (as amended) into the adjacent public road along the southern boundary (subject to phasing) or a new access road served from within the existing distillery complex to the east.
- No new process or foul drainage is proposed.
- Boundary fencing will be retained as found on site i.e. post and wire and hedging. No security fencing is proposed.
- A Design and Access Statement, Planning Policy Statement, Drainage Impact Assessment and SUDs Strategy, Pre-Construction Information, Landscape Specification and Maintenance Report, Arboricultural Method Statement, Pre-application Community Consultation (PAC) Report and Transport Assessment form has been submitted in support of the application.
- Based on indicative phasing proposals it is anticipated that the site will be developed in 4 phases, with the two warehouses, 8 and 9 at the eastern side of the site being built initially, followed by 3 further phases (warehouses 10/11, 12/13 and 14-18) moving westwards across the site over a 10 year period with breaks between construction.

THE SITE

- The application site extends to approx. 6.2ha and forms an area of fallow agricultural land adjacent to the existing distillery, on the north-western edge of Forres.
- The site is bounded by distillery warehouses and trees to the east, farmland to the north, the Waterford Industrial Estate/farmland and new link road from the A96 to the south and a flood alleviation embankment/farmland to the west. Boundaries are currently a mixture of hedgerow, trees and post and wire fencing.
- The site is located on an area of prime agricultural land (Class 2) and within the Forres Countryside Around Towns (CAT) designation, as identified in the Moray Local Development Plan 2015. The site-specific designation Forres I5 which relates to the existing distillery premises lies to the east.
- There are several residential properties in the surrounding area, the nearest being Ardlyn, and 1 and 2 Waterford Road approximately 50m from proposed warehouse no. 8 in the south east corner of the site on the opposite side of Waterford Road, Waterford Farm approximately 140m to the west, beyond the flood alleviation embankment and two properties, Murryfield and Saligo approx. 145m to the east on the far side of the distillery.
- The proposal site is not located within any designated environmentally sensitive areas. The Moray and Nairn Coast SPA and RAMSAR sites, and Findhorn Bay Local Nature Reserve are located approximately 2.5km to the north.
- The SEPA indicative flood map shows that the site is currently identified as being at 'little or no risk' from river or coastal flooding, although it has been subject of historical flooding in the past; an area of land immediately to the west is identified as being at 'medium risk' of river flooding. The SEPA flood map also indicates that the majority of the site is at low risk from surface water flooding, however small localised areas are shown to be at 'medium or high risk' of flooding. The site also benefits from protection from both the Findhorn and Burn of Mosset flood alleviation schemes.
- There are no known sites of archaeological interest within the application site boundary, but there are several in the wider area i.e. crop marks indicating probable prehistoric settlement. The original Benromach distillery buildings and Malt barn are Category B listed.
- Buried power line cross the site and extend around the perimeter.

HISTORY

For the site:

16/01752/PE - Pre-application advice issued (following pre-application meeting) for proposal for cask warehousing to be connected to existing Benromach Distillery. Response confirmed proposal to be a major application as defined within the Heirarchy Regulations, requirement for formal Pre-Application Consultation (PAC) procedures and the potential impacts and planning matters to be addressed within any future planning application.

17/01505/PE - Proposed new distillery and warehousing on land adjoining Benromach Distillery, Waterford Road. Response confirmed proposal to be a major application as defined within the Heirarchy Regulations, requirement for formal Pre-Application Consultation (PAC) procedures and re-iterated previous comments provided under

16/01752/PE - Regarding potential impacts/planning matters to be addressed within any future planning application.

17/01903/PAN - Proposal of Application Notice for cask warehousing to be connected to existing Benromach distillery site submitted to the Council in December 2017 and reported to Committee on 26th February 2018. Response(s) confirmed consultation arrangements and publicity event to be acceptable, and provided feedback from Members to be taken into account as part of the development of the application. This queried whether there were any plans to form new access points onto Waterford Road for new distillery traffic other than the ones used by traffic at that time, and whether there were plans for the electricity cables which traversed overland at that time to be put underground. Further comments sought that consideration be given to the impact on the nearby flood scheme bund to the north and the need to ensure the flood team were fully consulted, and that consideration be given to the importance of sympathetic landscaping/tree planting and environmental issues.

18/00853/HAZ - Application for Hazardous Substance Consent for storage of ethanol (whisky and gin) at the site, currently submitted and pending consideration at the time of writing this report.

For the existing distillery:

99/01139/FUL - Planning consent for change of use of part of former malt barns to whisky storage, including two new external fire escape stairs – granted 1st October 1999.

99/01140/LBC - Listed Building Consent for associated alterations to former malt barns including two new external fire escape stairs – granted 1st October 1999.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes where no premises were present on neighbouring land and as a departure from the local development plan.

CONSULTATIONS

Development Plans – The proposal complies with relevant policies PP1 Sustainable Economic Growth, PP3 Placemaking, ED1 Development of New Employment land and E4 Trees and Development (subject to provisos). For the latter this is subject to there being no tree removal outwith the north site boundary and that proposed planting on the north and west boundaries should be of a semi-mature status and of a height that provides the site and proposed warehouses with sufficient containment and visual mitigation.

The proposal is a departure from Policies ER5 Agriculture, E9 Settlement Boundaries and E10 Countryside Around Towns in that the site is identified as Prime Agricultural Land (Class 2), lies immediately outwith the settlement boundary of Forres and within the Forres Countryside Around Towns (CAT) designation.

The proposed development contributes towards the delivery of sustainable economic growth and generally complies with Policy PP1 Sustainable Economic Growth. The proposal is an extension of an existing business onto land identified for future expansion for employment use in the Main Issues Report for the Moray Local Development Plan 2020 and is one option being pursued to provide effective employment land to meet the well-recognised shortfall of employment land in Forres.

Environmental Health Manager – No objections subject to a condition controlling working hours during the construction phase, with audible works at any point on the boundary of any noise sensitive dwelling permitted only between 0700 - 1900 hours, Monday to Friday, and at no other times out with these permitted hours (including National Holidays) unless previously agreed in writing with the Council. Informative advice also provided regarding artificial lighting and dust protection measures, which are controlled under the Environmental Protection Act 1990.

Environmental Health, Contaminated Land - No objection.

Building Standards – A Building Warrant is required.

Moray Access Manager – No objection.

Transportation Manager - Approved subject to conditions requiring provision of details of gates to the new access, signage, footpath and roads drainage infrastructure, appropriate visibility splays, phasing and a Construction Traffic Management Plan.

Moray Flood Risk Management - No objection subject to conditions requiring provision of details of phasing, a construction phase surface water management plan and implementation of the SUDs scheme.

Developer Obligations - No developer obligations identified.

Scottish Environment Protection Agency (SEPA) - No objection subject to a condition requiring submission/approval and implementation of a Construction Environment Management Plan. The site is in an area which has flooded in the past and is part of the natural flood plain, however it now benefits from an appropriate standard of protection from both the Findhorn and Burn of Mosset flood alleviation schemes. As the proposal is for a less vulnerable use and is protected by flood defences SEPA has no objection on flood risk grounds. Surface Water drainage as set out within supporting Drainage Impact Assessment and SUDs Strategy is also considered acceptable in terms of SEPA interests of water quality. Regulatory advice also provided regarding Control of Major Accident Hazards Regulations 2015 (COMAH) and Hazardous Substance Consent regime.

Scottish Natural Heritage (SNH) - No objection. Recommends that a condition be attached regarding implementation the landscape scheme which will provide positive enhancement opportunities that will benefit wildlife.

Health and Safety Executive – Separate Hazardous Substances Consent may be required.

Scottish Water – No objections. Advisory comments confirming sufficient capacity currently within water and waste water treatment works, although further investigations may be required once a formal application is submitted to Scottish Water.

Scottish and Southern Electricity Network – No objections. Advisory comments to applicant to be aware of the underground cable and overhead lines in and around the vicinity of the site.

Aberdeenshire Archaeology Service – No objection subject to a condition requiring submission and approval of a programme of archaeological works for the recording/recovery of archaeological resources found at the site, to safeguard and record the archaeological potential of the area.

Transport Scotland – No objection.

Forres Community Council - No response received at time of writing report.

OBJECTIONS-REPRESENTATIONS

None received.

OBSERVATIONS

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

The application is a major development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, as it includes storage buildings with a combined gross floorspace in excess of 10,000sq m and the area of the site exceeds 2 hectares.

As required under the Planning etc. (Scotland) Act 2006, the proposal has been the subject of pre-application consultation (PAC) procedures with the local community in the lead up to submission of the current application in accordance with the associated Proposal of Application Notice 17/01903/PAN. In this case, this has involved prior notification of a public exhibition event at the Benromach Distillery Visitor Centre on 17th January 2018 through a newspaper advertisement and individual letters to the Moray Council ward members and the Forres Community Council. The PAC report submitted with application identifying the outcome of this public consultation confirms that five visitors attended the event, three of were supportive, with the remaining two being representatives of building contractors on reconnaissance for business.

The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. This has concluded that the proposal is not an EIA development and does not require to be the subject to formal EIA procedures.

Primary Policies - PP1, PP2 and PP3

The proposal requires assessment against primary policies PP1, PP2 and PP3 of the MLDP.

Policy PP1 Sustainable Economic Growth favours development proposals which support the Moray Economic Strategy and contribute towards delivery of sustainable economic growth, where the quality of the natural and built environment is safeguarded and relevant policies and site requirements are met. The proposal for new warehouses associated with Benromach Distillery accords with this policy as it will contribute towards the delivery of sustainable economic growth and bring further investment to Moray through provision of distillery related development.

Policy PP2 Climate Change requires proposals to address set objectives in order to contribute to reducing greenhouse gas emissions, i.e. occupy sustainable locations that make efficient use of land and infrastructure, optimise accessibility to active travel and public transport, encourage energy efficiency etc. The proposed warehousing located alongside the existing distillery complex close to the town, with good transport links and access to infrastructure, landscaping/green corridors, and designed to be free of heating and mechanical ventilation would meet these objectives.

Primary Policy PP3 Placemaking requires all residential and commercial (business, industrial and retail) developments to incorporate the key principles of Designing Streets, Creating Places and Urban Design Supplementary Guidance. For major applications and as is this case in this instance, this has included the submission of a Design and Access Statement to aid consideration of the proposal within the context of the site and surrounding area. The proposed layout of warehouses alongside the adjacent distillery complex, of similar form/materials to the existing modern warehouses, together with landscaping, SUDs pond and two access points would represent an appropriate development that would accord with the above principles.

Departures from the Development Plan (Policies ER5, E9 and E10)

The proposal site is located on area of prime agricultural land (Class 2) and is therefore subject to policy ER5 Agriculture. This presumes against irreversible development on prime agricultural land (Classes 1, 2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative. As the proposed development does not meet these requirements, the proposal is a departure from Policy ER5.

The proposed site is also located immediately outwith the settlement boundary of Forres, which represents the limit to which the settlement can expand during the current Local Development Plan period. To this end the policy states that, proposals immediately outwith settlement boundaries will not be acceptable unless the site is a designated 'LONG' term development site which is being released for development under the terms of policy H2. The proposal is not a designated 'LONG' term development site and therefore departs from Policy E9

The site is within the Forres Countryside Around Towns (CAT) designation. Policy E10 stipulates that proposals within a CAT will be refused unless they meet criteria such as the change of use of existing buildings, is necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use, is specifically allowed under the terms of other Moray Local Development Plan policies or are a designated 'LONG' site. The proposal does not meet any of the criteria and therefore is also a departure from Policy E10.

Whilst the above departure issues are acknowledged, it is considered that there are material considerations in this instance which support a departure. These include; 1) the policy support afforded to the proposal by the three Primary Policies as it would contribute to economic growth, be in a sustainable location that makes efficient use of land and infrastructure and follows placemaking principles, 2) that the proposal is essentially an extension of an long established business onto adjoining land and would meet the well-recognised shortfall of employment land in Forres, and 3) the incorporation of substantial landscaping plans designed to soften and visually contain the development and enhance the site for wildlife, with biodiversity benefits.

Siting, Design & Amenity (Policies PP1, PP3, ED1, E4 and IMP1)

The proposal for 11 warehouses would result in a significant expansion of the Benromach Distillery on the edge of Forres. Policies PP1 Sustainable Economic Development and PP3 Placemaking (as already outlined) is supportive of such proposals provided the quality of the natural and built environment is safeguarded and relevant policies and site requirements are met. For new industrial and business related development, Policy ED1 Development of New Employment Land sets out relevant criteria that proposals must satisfy i.e. provision of satisfactory road access, parking and pedestrian links to the wider transport network, adequate foul and surface water drainage, landscaping and protection of the natural environment etc. Policy E4 Trees and Development protects trees/woodland and where this is removed in association with development, the provision of compensatory planting. Policy IMP1 Developer Requirements requires new proposals to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area and to comply with set criteria, such as integrate into the surrounding landscape, and provision of adequate infrastructure.

In terms of siting and design, the proposed warehouses aligned with the existing warehouses to the east, with similar low profile designs would represent an appropriate form of development that would be compatible with their surroundings. They would be of similar height and form to the existing modern warehouses and have a neutral coloured finish of light grey metal cladding to the walls and roof. Current boundary treatment consisting of post and wire fencing and hedgerow would also largely be retained (with the exception of a section along Waterford Road where the new access and visibility splay is to be formed). Substantial landscaping mitigation proposals across the site comprising tree and hedgerow planting, and species rich and amenity grass around the site perimeter and between each of the rows of buildings would further help to integrate the development with its surroundings, as it becomes established. Given these siting factors, the proposed development although large in area would not result in significant adverse visual impacts upon the landscape.

The above plans informed by a detailed Arboricultural Method Statement include the proposed removal of a row of poplar trees and a limited number of other trees within the distillery complex itself which runs along the eastern site perimeter, however this would be acceptable given the extent of new mitigation planting proposed which would in time provide robust screening to the new warehousing meeting the terms of policy E4. This will be covered by the imposition of a planning condition including phasing arrangements.

The distance of the proposed warehouses in relation to the nearest dwelling houses (50m and 140m) coupled with the low key nature of the use of the proposed buildings for maturation storage would also serve to ensure that no significant loss of residential amenity (i.e. noise or emission impacts) would occur subject to conditions. The Environmental Health Manager has been consulted and has raised no objection to the

proposals subject to a condition controlling working hours during the construction phase, and informative advice regarding artificial lighting and dust protection measures (which are controlled under the Environmental Protection Act 1990). This condition together with the informative advice shall be attached to the decision notice.

In light of the above considerations and subject to the conditions as recommended the proposal would comply with siting, design and amenity requirements of the abovementioned policies ED1 and IMP1, E4, and PP1 and PP3.

Access, Parking and Traffic (T2, T5, IMP1 and IMP2)

Policies T2, T5, IMP1 and IMP2 require developments to provide safe entry and exit onto the public road with appropriate visibility splays, mitigation/modifications to the road network to address impacts from proposals, adequate parking provision and submission of Transport Information to aid assessment of transport/traffic impacts (where required).

In this case proposed access arrangements involving a new proposed access (as amended) into the adjacent public road along the southern boundary and a new access road from the distillery complex to the east would meet these requirements (subject to conditions). No staff parking is proposed as adequate provision already exists on site. A Transport Assessment Form has also been submitted with the application which contains transport and traffic information and indicates that (following construction and initial filling with barrels) any impact upon the local road network would not be significant.

The Transportation Section has assessed these elements and additional information submitted and has raised no objection subject to conditions requiring the submission, approval and implementation of details of gates/barriers to the new vehicular access with adequate set back from the road, signage, footpath and roads drainage infrastructure, appropriate visibility splays, phasing and a Construction Traffic Management Plan. Subject to compliance with these conditions, the proposals would accord with the above policies.

Drainage (EP5 and IMP1)

Policies EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) and IMP1 Developer Requirements require the provision of SUDs to address the disposal of surface water from the development.

As outlined within supporting Drainage Impact Assessment and additional supporting information, proposed surface water drainage arrangements in this case would involve installation of individual roof water soakaways (stone filled filter trenches) for each of the warehouses and filter drains for the new roadways that would then discharge into an infiltration basin at the southwest corner of the site. These would be designed and appropriately sized to accommodate surface water flows from up to a 1 in 200 year storm event and ensure that the post-development run off rate does not exceed the pre-development/greenfield run off rate or increase flood risk.

Both SEPA and the Flood Risk Management Team have reviewed these submissions and have raised no objection. Conditions requiring implementation of these drainage arrangements and submission/approval of details of phasing and a construction phase surface water management plan are covered by condition.

Subject to compliance with the recommended conditions, the proposal complies with policy EP5 and IMP1 in relation to surface water drainage.

Flood Risk (EP7)

The site has flooded in the past and is part of the natural flood plain, however it now benefits from an appropriate standard of protection from both the Findhorn and Burn of Mosset flood alleviation schemes. Based on SEPA indicative flood maps the site is located within an area currently identified as being at 'little or no risk' from river or coastal flooding. An area of land immediately to the west is shown as being at 'medium risk' of river flooding. The SEPA flood map also indicates that the majority of the site is at low risk from surface water flooding, although small localised areas are identified as being at 'medium or high risk'. As such the proposal requires assessment under the terms of policy EP7 Control of Development in Flood Risk Areas, including consultation with SEPA and the Flood Risk Management Section.

Following consultation, SEPA has raised no objection on flood risk grounds as the proposal is for a less vulnerable use (storage and distribution) use as defined in SEPA guidance and is situated on land behind flood defences, protected by both the Findhorn and Burn of Mosset flood alleviation schemes.

Similarly the Flood Risk Management Section has raised no objection on flood grounds following assessment of the proposed drainage infrastructure.

Pollution Prevention (EP8 and EP12)

Policies EP8 Pollution and EP12 Air Quality aim to ensure that new developments do not cause unacceptable pollution in terms of noise, air, water and light emissions, and where potential impacts are identified that these be can appropriately mitigated.

The proposed warehouse development, to be used for storage and maturation of whisky, with relatively low levels of traffic, and being sufficiently distant from residential properties in the surrounding area would not give rise to any unacceptable pollution impacts in terms of noise, air and light. Similarly, the distance between the proposal site and watercourses in the area, the nearest being the Burn of Mosset 180m to the east and the River Findhorn 350m to the west would ensure that pollution of the water environment is unlikely to occur.

SEPA has been consulted in this regard and has raised no objection subject to a condition requiring submission/approval of a site specific Construction Environment Management Plan/CEMP (in consultation with SEPA) and its implementation during the construction phase in order to prevent potential pollution on the environment and ensure the sustainable management of materials and waste. A condition to this effect shall be attached to the decision notice as recommended.

External lighting described within supporting information as comprising movement activated and emergency escape lighting attached to each of the buildings, with no street lighting proposed for the new roads coupled with distance from surrounding housing would also minimise the potential for light pollution or nuisance. The submission and approval of these detailed arrangements shall be covered by planning condition.

The Environmental Health Manager has raised no objection to the proposal subject to imposition of a condition controlling working hours during the construction phase, with works audible at any point on the boundary of any noise sensitive dwelling being permitted only between 0700 - 1900 hours, Monday to Friday, and at no other times out with these permitted hours (including National Holidays) unless previously agreed in writing with the

Council. Informative advice regarding artificial lighting and dust protection measures which are controlled separately under the Environmental Protection Act 1990 is also highlighted.

From the above and subject to the conditions as recommended the proposal is considered to comply with policies EP8 and EP12.

Natural Environment (E1, E2 and E3)

Policies E1 Natura 2000 Sites and National Nature Conservation Sites, E2 Local Nature Conservation Sites and Biodiversity and E3 Protected Species aim to protect the integrity of designated and local wildlife sites, and protected species against inappropriate development.

The site itself is not subject to any site-specific nature conservation designation, although natural heritage interests occur within the wider area, in this case the Moray and Nairn Coast Special Protection Area and RAMSAR sites and Findhorn Bay Local Nature Reserve located approximately 2.5km to the north. The proposal would have no adverse impacts on these designated areas given this separation distance and as there are no hydrological connections (water courses or drainage ditches) between the proposal and the areas. As the site is currently fallow agricultural land, it is also of limited natural heritage interest with low bio-diversity value. Supporting information contends that the introduction of the new use with largely retained hedgerow margins and additional landscaping would increase the receptiveness of the site to bio-diversity through removing the agricultural use and providing opportunities for enhancement of flora and fauna. Informative advice shall be attached highlighting relevant legislative requirements regarding the protection of nesting birds that may be present along the site boundaries

Scottish Natural Heritage (SNH) has assessed the proposal and welcomes the submitted landscape proposals with supporting Arboricultural Information which are designed to enhance bio-diversity within the site through use of native species of local provenance and provide positive opportunities that will benefit wild life. Implementation of these plans and measures as outlined within the supporting measures shall be addressed by a planning condition, as recommended by SNH.

From the above the proposal is compliant with policies E1, E2 and E3.

Cultural Heritage (BE1 and BE2)

Policy BE1 Scheduled Ancient Monuments and National Designations seeks the preservation of these interests, and their historic recording if preservation proves impracticable and Policy BE2 the protection of listed buildings and their settings.

Although there are no known sites of archaeological interest within the application site boundary, there are several in the wider area, namely crop marks indicating probable prehistoric settlement. Following consultation, the Aberdeenshire Archaeology Service has raised no objection to the granting of permission, subject to a condition requiring submission and approval of a programme of archaeological works for the recording/recovery of archaeological resources found at the site, to safeguard and record the archaeological potential of the area. This shall be attached to the decision notice as recommended.

The original Benromach distillery buildings and Maltbarn are Category B listed and located to the east of the site behind the existing modern warehousing. The proposed

warehousing would not have an adverse impact on the setting of these listed buildings given these existing intervening modern buildings which would provide a visual buffer.

Based on the above, and subject to the condition as recommended policies BE1 and BE2 are met.

Developer Obligations (IMP3 and IMP1)

Policy IMP3 seeks obligations from developers where development would have a measureable adverse or negative impact on existing infrastructure, community facilities or amenity. In this case, following an assessment, no requirement for obligations has been identified by the Developer Obligations Officer.

REASON(S) FOR DECISION

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

The proposed warehouse development, being located on prime agricultural land immediately outwith the Forres settlement boundary and within the Forres Countryside Around Towns (CAT) designation would represent a departure from Policies ER5, E9 and E10, but can be supported having regard to the nature, scale and location of the proposed development which would contribute to economic growth and not prejudice the objectives of those policies. In all other respects, including landscape and visual, transportation, drainage, pollution prevention, cultural and natural heritage, etc. interests, the proposal is considered to accord with the provisions of the development plan and there are no material considerations that indicate otherwise.

**Author/Contact
Officer:**

Richard Smith
Senior Planning Officer

Ext: 01343 563256

**Beverly Smith
Manager (Development Management)**

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 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.

I5: Ben Romach Distillery

A detailed flood risk assessment will be required for any application submitted for this site.

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 dependant terrestrial ecosystems.

Policies ED2 and ED4 apply.

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 E9: Settlement Boundaries

Settlement boundaries are drawn around each of the towns, villages and rural communities representing the limit to which these settlements can expand during the Local Development Plan period. Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released for development under the terms of Policy H2.

(In accordance with policy H11, for proposals involving Gypsy/Traveller sites, a distance of 1km will be applied as being "immediately outwith".)

Policy E10: Countryside Around Towns

Development proposals within the Countryside Around Towns (CAT's) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless they:

- involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas (excluding houses in all these cases), or
- are a designated "LONG" term housing allocation, released for development under the terms of Policy H2.

Policy ER5: Agriculture

The Council will support the agricultural sector by:

- Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.
- Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

Proposals for agricultural buildings with a locational requirement will be subject to visual, landscape and amenity considerations and considered against the relevant environmental policies.

Policy T2: Provision of Access

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

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;

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

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

Policy T5: Parking Standards

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

Policy 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 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 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 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 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 BE2: Listed Buildings

The Council will encourage the protection, maintenance, enhancement and active use of listed buildings.

Development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of the listed building. Alterations and extensions to listed buildings or new developments within their curtilage must be of the highest quality, and respect the original structure in terms of setting, scale, materials and design.

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building(s). The resulting development should be of a high design quality protecting the listed building(s) and their setting and be the minimum necessary to enable its conservation and re-use.

No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Where demolition of a listed building is proposed it must be shown that;

- a) The building is not of special interest; or
- b) The building is incapable of repair; or
- c) The demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- d) The repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable price.

New development should be of a comparable quality and design to retain and enhance special interest, character and setting of the listed building(s).

Buildings which are allowed to fall into a state of disrepair may be placed on the Buildings at Risk Register and remedial works to buildings in disrepair may be enforced in the public interest.

Proposals should be in accordance with guidance set out in the Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment guidance note series.

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.

Policy IMP2: Development Impact Assessments

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

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

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

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

Policy IMP3: Developer Obligations

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

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

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

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

