

24/00408/APP
12th March 2024

Development of a cemetery soft and hard landscaping access parking and associated development at Land To The East Of Linkwood Road And North Of Hallowood Road Elgin Moray for Moray Council

Comments:

- A site visit will have been carried out.
- Advertised for neighbour notification purposes, as a departure from the development plan and as a schedule 3 development.
- No representations have been received.

Procedure:

- None

Recommendation: Approve subject to the following conditions:-

Conditions/Reasons

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

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

2. No development shall commence until a visibility splay 2.4m by 215m has been provided in both directions at the new access onto the public road with all boundaries set back to a position behind the required visibility splays; and maintained thereafter at all times free of any obstruction greater than 0.6m in height measured from the level of the carriageway (as shown on submitted drawing reference "40186-IFL-A1-RD-C-00-002-P06".)

Reason: To enable drivers of vehicles leaving the site 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.

3. Prior to the first use of the cemetery a new 2.5m wide cycle path to Moray Council specification shall be provided along the eastern side of the C20E Linkwood Road, linking the existing southernmost pedestrian crossing point (grid reference 323530, 860852 just north of Thistle Drive) to the new site access. The new cycle path shall be set back from the edge of the public carriageway by a minimum distance of 1.5m. The provision of the new cycle path shall require the re-location of an existing sign and existing street lighting column(s).

Reason: To ensure that the development provides safe and suitable access for pedestrians to reduce the impact of travel and transport on the environment.

4. Prior to the first use of the cemetery a minimum of the first 15m of the new access track, measured from the edge of the public carriageway, shall be constructed to the Moray Council specification and surfaced with bituminous macadam. The width of the new vehicular access shall be 6.0m metres for a minimum of the first 10m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. Access radii shall be as shown.

Reason: To ensure acceptable infrastructure at the development access.

5. Prior to the first use of the cemetery the two existing field accesses (Grid refs 323571,860746 and 323598,860682), and the existing access to the gas distribution station shall be to Moray Council specification and surfaced in bituminous macadam from the edge of the public carriageway to a minimum distance of 5.0m beyond the eastern edge of the new cycle path. The width of the upgraded field accesses shall be minimum 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The width of the access to the gas distribution station shall be as existing.

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

6. Parking shall be the following:
 - 55no parking spaces
 - 5no disabled parking spaces
 - 6no cycle parking spaces

The parking shall be provided prior to the first use of the cemetery and thereafter be retained throughout the lifetime of the development unless otherwise agreed in writing with the Council as Planning Authority.

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

7. No water shall be permitted to drain or loose material be carried onto the public carriageway.

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

and surface water in the vicinity of the new access or as a result of the regrading works.

8. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road.

9. Prior to any development commencing, the tree protection measures as shown in the approved drawing number 40186 IFL A1 DR C 30 003 P02 'Tree Works Plan' shall be provided in full and retained until the completion of development works, unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure timeous delivery of tree protection measures.

10. All landscaping proposed as part of the approved landscaping scheme shall be provided in the first planting season following implementation of the development relevant to each phase (as identified in the approved plans) hereby approved, unless otherwise agreed with the Council, as Planning Authority. Thereafter the landscaping shall be maintained in accordance with the approved maintenance schedule.

Reason: To ensure timeous delivery and suitable maintenance of the approved landscaping, in the interests of the character of the proposed cemetery and that of the wider area, and to ensure biodiversity enhancement measures are provided.

11. The development shall progress in accordance with the recommendations in the approved "Preliminary Ecological Appraisal (PEA) and Preliminary Bat Roost Assessment (PRA), Proposed cemetery at Linkwood Road, Elgin, Moray" by Rachael Thwaites dated 29 December 2022 unless otherwise approved in writing by Moray Council as Planning Authority.

Reason: To ensure the development progresses in accordance with the recommendations of the ecological survey, in the interests of the environment.

12. No trees shall be felled until the further Bat Survey as required under the approved "Preliminary Ecological Appraisal (PEA) and Preliminary Bat Roost Assessment (PRA), Proposed cemetery at Linkwood Road, Elgin, Moray" by Rachael Thwaites dated 29 December 2022 has been submitted to an approved in writing by the Council, as Planning Authority. Thereafter the development shall proceed in accordance with any suggested mitigation measures within the approved final survey.

Reason: To ensure the preservation of bats and their habitats.

Reason(s) for Decision

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

The site subject to this proposal is identified for development of a new cemetery within the Council's adopted Local Development Plan. The only safe access arrangement to this site for vehicles, cyclists and pedestrians would require the removal of 35 trees identified as ancient woodland, noting the site is constrained by a high-pressure gas pipeline to the east.

On balance this proposal represents a suitable form of development to provide an essential public amenity with significant biodiversity enhancement including planting of over 1300 trees, significant areas of shrubs and wildflower planting, as well as ornamental trees and bulb planting. The tree loss is justifiable under the Scottish Government's Control of Woodland Removal Policy, and the proposal is therefore considered to be an acceptable departure from NPF Policy 6 – Forestry, Woodland, and Trees and MLDP Policy EP7 – Forestry, Woodland and Trees, both of which presume against the loss of ancient woodland. The proposal is subsequently an acceptable departure under biodiversity policies NPF Policy 3 and MLDP Policy EP2.

The proposal complies with National Planning Framework 4 and the Moray Local Development Plan 2020 in all other respects and there are no material considerations that indicate otherwise.

List of Informatives:

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

The formation of the required visibility splay will involve the removal of gorse and vegetation, the removal of a number of mature trees and the regrading of sections of existing verge. In order to try and minimise any tree removals Transportation would be happy to visit the site during clearance works to review the visibility splay impact for individual trees.

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

Before commencing development the applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads (cycle path and new access). The applicant will be required to provide technical information, including drawings and drainage calculations. Advice on this matter can be obtained from the Moray Council web site or by emailing constructionconsent@moray.gov.uk For clarity the technical detail relating to the new cycle path, including crossing points across existing accesses shall be assessed as part of the Roads Construction Consent. The provision of the new cycle path shall require the relocation of an existing sign and repositioning of existing street lighting column(s).

The developer should note that the existing footway/refuge island within Linkwood Road (being tied into) is private and is not yet adopted by the Roads Authority.

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

Any existing ditch, watercourse or drain under the site access shall be piped using a suitable diameter of pipe. Advice on these matters can be obtained by emailing roads.asset@moray.gov.uk

Any existing provisions for the site to accept water from the public road must be retained or relocated to a location agreed with the Roads Authority. It is highlighted that offlets are present within the site frontage with significant volumes of water presently being accepted on occasion. The existing arrangements to discharge and accept road water must be retained and made no worse as a result of the development, and in particular as a result of any changes to the verge to provide the visibility splays or as a result of the removal of trees. Advice on this matter can be obtained by emailing roads.asset@moray.gov.uk

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

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

Existing street lighting columns are located in close proximity to the proposed new cycle path, and may require to be relocated. The developer should contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin – Tel (01343) 557300, Ext 7327 to discuss the proposals. If required, the street lighting columns shall be repositioned at the expense of the developer.

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

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
40186-IFL-A1-DR-C-10-002 P01	Site plan
40186-IFL-A1-DR-C-10-001 P01	Location plan
40186-IFL-A1-DR-C-30-001 P01	Site constraints
40186-IFL-A1-DR-C-30-004 P01	Earthworks plan
40186-IFL-A1-DR-C-30-005 P01	Site long sections

40186-IFL-A1-DR-C-30-005 P01	Site cross sections - sheet 3
40186-IFL-A1-DR-C-30-005 P01	Site cross sections - sheet 2
40186-IFL-A1-DR-C-40-001 P01	Drainage strategy
40186-IFL-A1-DR-C-70-002 P01	Tree planting plan
40186-IFL-A1-DR-C-70-003 P01	Soft landscape plan
40186-IFL-A1-DR-C-70-007 P01	Furniture details
40186-IFL-A1-DR-C-10-005 P01	General arrangement - phase 1 delivery
40186-IFL-A1-DR-C-10-004 P01	Phase plan
40186-IFL-A1-DR-C-30-002 P01	Site clearance and demolition
40186-IFL-A1-DR-C-60-001 P01	Soft landscape plan - sheet 1
40186-IFL-A1-DR-C-60-001 P01	Soft landscape plan - sheet 2
40186-IFL-A1-DR-C-30-003 P02	Tree works plan
40186-IFL-A1-DR-C-10-003 P04	General arrangement
40186-IFL-A1-DR-C-00-002 P06	Visibility splay

Documents to be stamped approved:

- Drainage Impact Assessment
- Landscape Maintenance Scheme
- Preliminary Ecological Appraisal



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
24/00408/APP

Site Address:
**Land To The East Of Linkwood Road And North Of
Hallowood Road Elgin**

Applicant Name:
Moray Council

Plans, drawings and other material submitted to the local authority are protected by the Copyright, Designs and Patents Act 1988 (section 47). You may only use material which is downloaded and/or printed for consultation purposes, to compare current applications with previous schemes and to check whether developments have been completed in accordance with approved plans.

Further copies must not be made without the prior permission of the copyright owner.

Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Moray Council and other Copyright holders. This permission must be granted in advance.

Location Plan



Site Location



Site layout



Photo Location plan

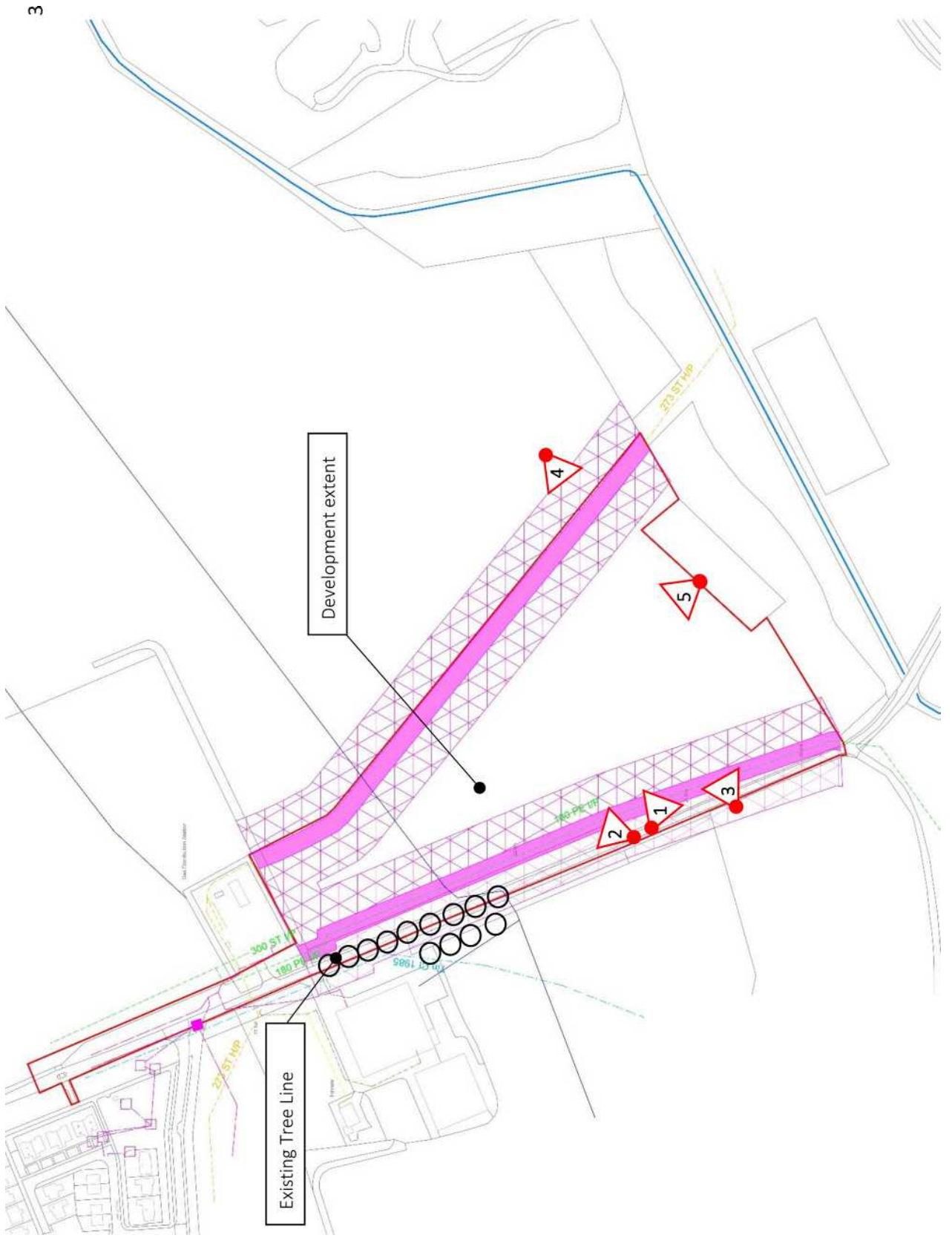


Photo 1



Photo 2



Photo 3





Photo 4

Photo 5



PLANNING APPLICATION: 24/00408/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

1. THE PROPOSAL

- Formation of public cemetery with associated landscaping, access and drainage.
- The cemetery would comprise a mixture of burial areas, including:
 - Standard and infant burial lairs;
 - Green burial; and
 - Internment of ashes.
- The arrangement has been informed by the topography of the site, to ensure minimal fill and excavation, whilst also ensuring suitable gradients within the site and minimum depths between the lairs and water table.
- Vehicular access to the cemetery would be formed via a new junction on to Linkwood Road, with the cemetery having internal roads and footpaths. There would be a car park for 55 vehicles including 5 accessible spaces.
- A 3m footpath and cycleway would be formed adjacent to Linkwood Road, running from an existing crossing point adjacent to the Jasmine Drive housing development towards the new access point for the cemetery.
- A work/maintenance yard for the cemetery would be formed in the north of the site.
- Landscaping would comprise woodland planting along the eastern and northern boundary (which also provides screening for the yard), formal tree planting along the western boundary. Areas of wildflower planting and amenity lawns would be provided throughout the cemetery whilst hedge planting would also be provided around the perimeter.
- Post and wire fencing would be provided along the southern and eastern boundaries of the site, beyond the landscaping boundary treatment proposed.
- The plans submitted show it would be delivered in two phases, with the bulk of the site being delivered in the first phase and a smaller northern portion forming the second phase.

2. THE SITE

- A 5.6 hectare site, roughly triangular in shape that currently comprises agricultural land with a row of mature trees along its western boundary with Linkwood Road.
- The site is bounded by the Hallowood woodland to the south and further agricultural land to the east. A gas governor and depot are to the north.
- The bulk of the site is covered by the ENV9 designation for a new cemetery in the Elgin Settlement Statement of the Moray Local

Development Plan 2020, with a small portion of the northern part of the site falling in the LONG2 housing designation.

- The mature trees along the western boundary of the site are designated as ancient woodland of plantation origin in the national woodland inventory.
- Gas pipelines run through the site on a north – south axis adjacent to the western boundary (intermediate pressure), as well as a north west – south east axis along the eastern boundary (high pressure).

3. HISTORY

23/01712/PAN – Proposal of Application Notice for development of a cemetery soft and hard landscaping access parking and associated development on land opposite Linkwood Dairy, Elgin.

22/01819/SCN – EIA Screening Opinion to construct new cemetery for the burial of human remains including public car park access road compostable toilet and combined footpath and cycle path for access at Linkwood Road, Elgin. Moray Council adopted a screening opinion on 13 December 2022 confirming that EIA procedures are not required.

4. POLICIES

National Planning Framework 4

Policy 1 - Tackling the Climate and Nature Crises
Policy 2 - Climate Mitigation and Adaptation
Policy 3 - Biodiversity
Policy 4 - Natural Places
Policy 5 - Soils
Policy 6 - Forestry, Woodland and Trees
Policy 12 - Zero Waste
Policy 13 - Sustainable Transport
Policy 14 - Design, Quality and Place
Policy 20 - Blue and Green Infrastructure
Policy 22 - Flood Risk
Policy 23 - Health and Safety
Policy 25 - Community Wealth Building

Moray Local Development Plan 2020

Policy PP3 - Infrastructure and Services
Policy DP1 - Development Principles
Policy DP3 - Long Term Land Reserves
Policy EP1 - Natural Heritage Designation
Policy EP2 - Biodiversity
Policy EP5 - Open Space
Policy EP7 - Forestry Woodland and Trees
Policy EP12 - Management and Enhancement of the Water Environment
Policy EP14 - Pollution, Contamination & Hazards

Elgin ENV9 - Cemeteries and proposed extensions
Elgin LONG2 - Elgin South

5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification purposes, as a schedule 3 development and as a departure from the development plan.

6. **CONSULTATIONS**

Transportation Manager – No objections, subject to conditions in respect of visibility splays, provision of cycle path and parking. Noted that the tree removal specified is a worst-case scenario and there may be opportunity for less removal once works are underway on site.

Moray Access Manager – No objections.

Contaminated Land – No objections.

Developer Obligations – No objections.

Environmental Health – No objections.

Aberdeenshire Council Archaeology Service – No objections.

Moray Flood Risk Management – No objections.

Strategic Planning and Development – General principle of development suitable in terms of designation ENV9, LONG2 and Elgin South Masterplan and policies EP5 (Open Space) and DP3 (Long Term Land Reserves). Proposal falls outwith scope for carbon assessment and Community Wealth Building Plan. The proposal results in the loss of 35 trees identified as ancient woodland and thus does not comply with MLDP Policy EP7 and NPF Policy 6. As a result the proposal is in conflict with MLDP Policy EP2 and NPF Policy 3 in respect of biodiversity.

Health and Safety Executive – Does not advise against granting of consent.

Scottish Gas Networks – No objections.

SEPA – No comments to make, refer to standing advice.

Scottish Forestry – Observations offered in respect of Control of Woodland Removal Policy, implications of ancient woodland and need to assess this proposal against it. Advice given that should tree removal be accepted, compensatory planting should be provided. From an initial assessment this already looks to be the case.

Innes Community Council and Elgin Community Council – No response received.

7. **OBJECTIONS-REPRESENTATIONS**

None

8. **OBSERVATIONS**

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

8.2 The main issues are considered below.

8.3 **Pre-application Consultation Report**

The application is accompanied by a Pre-Application Consultation (PAC) Report, as required under section 35C of the 1997 Act. This outlines the statutory consultation that the applicant undertook with the local community in relation to this application. The form and scope of the pre-application consultation was considered to be suitable and agreed by the Council in response to Proposal of Application Notice 23/01712/PAN.

8.4 The PAC Report outlines the feedback received as part of the PAC process. It notes that 10 people attended the first event with 137 views of the online page and 6 at the second event, with 2 views of the online page. 11 comments were received at the event, through the webpage and via email. The PAC report details the feedback received as part of the PAC process and addresses how the points raised have been considered in formulating the application.

8.5 **Principle of Development**

The site for this proposal is mainly covered by designation ENV9 (New Elgin South Cemetery) in the Elgin Settlement Statement of the MLDP. MLDP Policy EP5 – Open Space is in place to protect existing open space, whilst specifying standards for new open space. This proposal does not fall within either, however the development of a site identified for use as a cemetery as such is not considered to be at odds with the policy requirements of EP5.

8.6 The small northern portion of the site outwith ENV9 is covered by the LONG2 in the Elgin Settlement Statement, identified for housing provision. The site criteria for this designation states that development should comply with the Elgin South Masterplan. MLDP Policy DP3 – LONG Term Land Reserves recognises that LONG designations are in place to set out the direction of growth of settlements and to assist in the forward planning of infrastructure and landscape enhancement/mitigation. These sites are embargoed from development during the period of the Local Development Plan.

8.7 Early release can be considered in certain circumstances as set out under the policy, and it is noted that the early release of LONG2 was agreed through the annual review of the Housing Land Audit 2021 by the Planning and Regulatory Services Committee on 3 August 2021. The portion of land required for the

cemetery from the LONG2 designation is relatively small (0.92 ha of 110 ha) and its loss would not prejudice the delivery of development on the wider designation, noting that this area of land is identified as a cemetery in the Elgin South Masterplan. Taking account of these matters, the development of this portion of LONG2 is considered acceptable under the terms of MLDP Policy DP3.

- 8.8 Overall the general principle of the development of a cemetery on the land subject to this application is considered suitable under the terms of planning policy. With the existing Elgin cemetery expected to reach capacity within the next couple of years, the importance of this development as a necessary community facility, attracts significant weight in planning terms.
- 8.9 **Design and Siting**
NPF Policy 14 – Design, Quality and Place and MLDP Policy DP1 – Development Principles both require new development to be designed at a level appropriate to the character and amenity of the surrounding area. In this case the development of a cemetery will lead to minimal built form. Whilst there would be some degree of earthmoving to accommodate the various areas required as well as the necessary infrastructure, this will be limited. Two memorial walls are proposed, one each for the interment of ashes area and the infant area.
- 8.10 The yard to the north would be sited adjacent to the existing gas governor/depot, and would be screened by tree planting from the cemetery. No detail of any buildings to be provided have been submitted as part of this scheme and will be subject to separate consents/exercising of Council Permitted Development Rights (i.e. built without the need for planning permission).
- 8.11 Significant landscaping is proposed for this proposal. Plans show that trees will be planted around the perimeter of the new cemetery, as well as hedging. Throughout the cemetery there will be bulb planting, areas of wildflower planting and general amenity planting for the burial areas.
- 8.12 Overall the proposed works are typical of a cemetery, and would not look out of place within the context of the new facility. Accordingly the design and siting of the proposal is considered suitable in compliance with NPF Policy 14 and MLDP Policy DP1.
- 8.13 **Access and Parking**
To serve vehicles accessing the cemetery, a new access would be formed to Linkwood Road. This access would be sited at the middle of the western boundary of the site. This position allows for sufficient visibility (splay of 2.4 metres by 215 metres) to be provided to the south towards the sweeping corner on a 60 mph road, whilst minimising tree loss to the north of the junction (tree loss covered below under Trees).
- 8.14 A new 3m footway/cycleway would be installed to the north of the new junction, which would run along the eastern side of Linkwood Road and connect into the existing crossing point adjacent to the recently completed Jasmine Drive housing development. The design of this path has taken account of potential

future connections to development to the north on designation R19 and the remainder of LONG2.

- 8.15 Parking would be provided in the site, comprising 50 car parking spaces and 5 accessible car parking spaces. 6 cycle parking stances are also proposed. Of note there is a separate gated entrance (from the vehicular entrance) into the site from the shared footway/cycle path.
- 8.16 Following provision of additional information in respect of visibility splays, the Transportation Manager has raised no objections to this proposal, and notes that the extent of tree loss could be minimised once works commence on site when it becomes clear where roots of trees are located. However, for the purposes of this application the “worst case scenario” has been applied.
- 8.17 In terms of general accessibility, the submitted Design and Access Statement notes that the perimeter road has been designed to follow the sites contours, working as a one-way system whilst also being of a gradient of no more than 1:20, creating easier, barrier free access. Internal paths and grass paths have also been engineered to suitable gradients for accessibility.
- 8.18 Overall the proposal is considered to provide suitable infrastructure that ensures it is accessible to all, and therefore satisfies the requirements of NPF Policy 13 – Sustainable Transport and MLDP Policies DP1 – Development Principles and PP3 – Infrastructure and Services.
- 8.19 **Trees**
The line of trees along the western boundary of the site adjacent to Linkwood Road is identified as ancient woodland of plantation in origin in the National Woodland Inventory. NPF Policy 6 – Forestry, Woodland and Trees does not support the loss of ancient woodland. MLDP Policy EP7 – Forestry, Woodlands and Trees also takes this position with regard to ancient woodland. This application was advertised as a departure from the development plan on the basis it would require removal of ancient woodland and thus would be contrary to these policies.
- 8.20 The Scottish Government’s Control of Woodland Removal Policy (CRWP) aims to protect the existing forest resource in Scotland and supports woodland removal only where it would achieve significant and clearly defined additional public benefits. In some cases, including those associated with development, a proposal for compensatory planting may form part of this balance. Advice received from Scottish Forestry in this respect is noted.
- 8.21 Following clarification and consultation with the Transportation Manager on the necessary infrastructure to serve this site (i.e. the junction and necessary visibility splays, as well as provision of a footpath/cycleway), the need to fell 35 trees on the western boundary of the site has been identified. A tree survey provided with the application identifies these trees as 21 oak, 2 cherry, 1 maple, 3 hawthorn, 5 beech, 1 silver birch, 1 ash, and 1 Scots pine. Of these trees 19 are category A trees, 7 category B, 4 category C and 5 are unsuitable for retention (dead).

- 8.22 Annexe C of the CRWP sets out instances where woodland removal would be accepted. This includes where a democratically formed community aim is judged to be in the wider public interest.
- 8.23 The need for a new cemetery in Elgin has been long identified in previous MLDPs (2008 and 2015). The site for this proposal was identified in the current MLDP and forms part of the Elgin South Masterplan. Moray Council's Cemetery Strategy as adopted by the Economic Development and Infrastructure Services Committee at its meeting of 4 December 2018 (minute refers), estimated that Elgin had 6 years capacity remaining for lairs. This figure is currently estimated by the Lands and Parks Service to be approximately 2.5 years. Therefore the need to bring forward a new cemetery for the Elgin area is of significant importance for the local area and considered to be a matter of wider public interest.
- 8.24 The presence of a high pressure gas main along the eastern boundary of the site (which cannot be built on – including roadways), as well as the gas governor to the north, means the only viable option for access to this site is to the west via Linkwood Road, which necessitates removal of trees for visibility. The position of the proposed access is as far south as can be to minimise tree removal.
- 8.25 Suitable compensatory planting is provided within the site landscaping (well over 1300 trees), including significant planting of native woodland species on the eastern boundary of the site and ornamental/specimen planting within the cemetery. This includes a new avenue of lime along the site frontage whilst also being set back from Linkwood Road to enable visibility.
- 8.26 Scottish Forestry have also advised that the potential cumulative impact of the proposed development in respect to the local and regional context should be considered. Whilst there has been woodland removal to the north on Linkwood Road, the removal of the trees proposed in this instance would be viewed within the context of the site, with trees to the north and on the opposite side of Linkwood Road not being impacted on, meaning the visual impact of the loss of trees to users of the road will be limited to the immediate surrounds of the trees to be lost.
- 8.27 Consideration on tree loss gives rise to potential loss of habitat connectivity for species such as squirrels. The loss of habitat connectivity would be limited, noting the lack of trees on the western side of Linkwood Road adjacent to the Hallowood woodland, and trees identified to be retained would still allow connectivity to trees to the west of Linkwood Road and woodland to the south of Linkwood Farm. Proposed tree and shrub planting around the boundaries of this proposal would enhance connectivity for movement of species, as noted in the submitted Preliminary Ecological Appraisal. This would be further away from Linkwood Road than the existing trees, reducing negative impacts of wildlife crossing the road, as well as offering connectivity to the Hallowood.
- 8.28 Taking account of the above considerations, the loss of the 35 trees as part of this proposal is considered acceptable and justifiable under the terms of the CRWP. The proposal is therefore considered to be an acceptable departure

from NPF Policy 6 and MLDP Policy 7 regarding loss of ancient woodland, but complies with these policies in all other respects.

8.29 Landscaping and Biodiversity

NPF Policy 3 – Biodiversity and MLDP Policy EP2 both require new development to retain, protect and enhance biodiversity where possible. With regard to major development, NPF Policy 3(b) states that proposals will only be supported where they conserve, restore and enhance biodiversity, including nature networks, so they are in a demonstrably better state than without intervention. As such, proposals must meet the five criteria specified in NPF Policy 3(b). In this case the proposed development will see significant landscaping put in place to frame the cemetery. Submitted landscaping plans show a woodland mix of native tree species to be planted along the eastern boundary of the site to provide a defined edge to the site whilst offering suitable division for the cemetery from any future development to the east, as well as the proposed yard to the north of the site. Thicket planting (comprising 1800 shrubs including hazel, hawthorn and gorse) is also proposed along the eastern boundary to reinforce this boundary, whilst also offering suitable wildlife habitat.

8.30 More formal/ornamental planting comprising trees and hedges would be used throughout the cemetery to mark boundaries and internal circulation routes around the cemetery. Coupled with proposed bulb planting, wildflower planting (including within the surface water drainage area), the proposed landscaping arrangement is considered to offer a suitable level of blue and green infrastructure, including nature-based solutions in which to operate a cemetery. The proposed landscaping also offers an acceptable level of biodiversity enhancement that ensure compliance with biodiversity policies. The implications of existing and proposed tree planting, as well as tree removal with regard to nature networks and connectivity are noted above under “Trees”.

8.31 Whilst there would be a loss of 35 mature trees as a result of this proposal (as noted above under trees), the overall level of compensatory planting and wider biodiversity enhancement measures are considered to represent a net biodiversity gain compared to the current condition of the site. This would ensure suitable levels of mitigation are provided in accordance with the mitigation hierarchy specified in NPF. The cemetery utilises nature based solutions to frame its setting, enhancing this essential public amenity and facility. The supporting landscape maintenance scheme notes that the measures will be suitably maintained as part of the operation of the cemetery.

8.32 Overall, the loss of ancient woodland is at odds with the aims of biodiversity policies, but proposed biodiversity enhancement measures are considered to satisfy the five criteria as specified in NPF Policy 3 (b). As such this proposal is considered to be an acceptable departure from NPF Policy 3 and MLDP Policy EP2.

8.33 Protected Species

A Preliminary Ecological Assessment submitted with the application notes that some of the mature oak trees to be removed has the potential to harbour bats, a protected species. NPF Policy 4 – Natural Places and MLDP Policy EP1 – Natural Heritage Designations states that any development that potentially impacts on protected species must be accompanied by a survey to allow the

impact of the proposal on the species to be fully considered prior to determination of any application. The Preliminary Bat Roost Assessment within the ecological information provided notes some trees have a low to moderate potential for bat roosts. As the extent of trees to be removed to accommodate the access to the cemetery was only resolved recently, a full survey is now underway to identify the potential for bats present in these trees. As the Council is the applicant comfort can be taken that any necessary licenses or mitigation can be controlled and will be implemented such that a condition allowing for the conclusion of bat surveys to take place can be imposed in this instance.

8.34 Subject to condition ensuring the survey work is undertaken, the proposal is considered to comply with NPF Policy 4 and MLDP Policy EP1.

8.35 **Drainage**

A Drainage Impact Assessment submitted has found that the ground conditions within the site are suitable to provide a surface water drainage system that can be designed in accordance with Sustainable Urban Drainage System (SuDS) principles. This also takes account of climate change allowances and urban creep. The layout shows surface water within the site being treated in two catchments, one to the south-west of the site and the other to the north and east. Flush kerbs on the circulation roads will allow water to flow swales in road edges, that will feed to attenuation crates over an existing field drain, with subsequent control of any water overflow to this field drain at a rate to maximise attenuation and ensure surface water drainage discharge is no worse than the current greenfield rate.

8.36 Moray Flood Risk Management has raised no objections to the proposal. The proposal is therefore in compliance with MLDP Policy EP12 - Management and Enhancement of the Water Environment (and associated Supplementary Guidance on Drainage and Flood Risk Assessment in New Development), as well as NPF Policy 22 - Flood Risk and Water Management, all of which advocate use of SuDS principles to ensure surface water drainage can be treated on site without detriment to flood risk elsewhere. The drainage approach is also suitable in terms of NPF Policy 20 – Blue and Green Infrastructure, whereby the surface water drainage is incorporated into the landscaping of the site.

8.37 **Gas Pipeline/Major Accident Hazard**

The site is bounded by a high-pressure gas pipeline to the east, which is identified as a major accident hazard. Scottish Gas Networks have raised no objections to the application.

8.38 Identification as a major accident hazard requires consultation with the Health and Safety Executive. They have identified no reason to refuse planning permission for this application with regard to safeguarding. The proposal is therefore in compliance with NPF Policy 23 - Health and Safety, as well as MLDP Policy EP14 - Pollution, Contamination and Hazards.

8.39 **Other Policy Matters – National Planning Framework 4 (NPF)**

NPF Policy 5 – Soils, is in place to ensure any disturbance to soils is minimised. In this case the proposed development comprises limited built form,

and whilst there will be some degree of disturbance to soils as the cemetery is formed, this is not considered to be at odds with this policy.

- 8.40 NPF Policy 2 – Climate Mitigation and Adaptation seeks to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change. The Council has prepared guidance in respect of considered carbon emissions, but again given the limited built form proposed this proposal does not fall within the scope of the guidance. The proposal is considered to enhance biodiversity and therefore would comply with NPF policy 2.
- 8.41 NPF Policy 25 – Community Wealth Building and the Council’s guidance on the topic requires a Community Wealth Building Plan to be provided with certain developments. Whilst this is a major development, the Council’s Community Wealth Building Officer has confirmed that in this specific case a Community Wealth Building Plan is not required.
- 8.42 NPF Policy 12 – Zero Waste is of limited relevance in this case as the formation of the cemetery is unlikely to generate significant levels of waste that requires evaluation under this policy, and once operational there will be very low levels of waste generated.

Conclusion and Recommendation

The site subject to this proposal is identified for development of a new cemetery in the Council’s adopted Local Development Plan. The only safe access arrangement to this site for vehicles, cyclists and pedestrians would require the removal of 35 trees identified as ancient woodland, noting the site is constrained by a high-pressure gas pipeline to the east. Whilst the loss of these trees is regrettable, the significant need for a new cemetery in Elgin where there is only 2.5 years of capacity left for burials cannot be discounted.

On balance this proposal represents a suitable form of development to provide an essential public amenity with significant biodiversity enhancement including planting of over 1300 trees. The proposal is therefore considered to be an acceptable departure from NPF Policy 6 – Forestry, Woodland, and Trees and MLDP Policy EP7 – Forestry, Woodland and Trees, as well as biodiversity policies NPF Policy 3 and MLDP Policy EP2. This proposal will provide a much needed facility to serve the Elgin area for the next 150 years.

The proposal complies with National Planning Framework 4 and the Moray Local Development Plan 2020 in all other respects. Approval is accordingly recommended, subject to conditions.

REASON(S) FOR DECISION

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

The site subject to this proposal is identified for development of a new cemetery within the Council’s adopted Local Development Plan. The only safe access arrangement to this site for vehicles, cyclists and pedestrians would require the removal of 35 trees identified as ancient woodland, noting the site is constrained by a high-pressure gas pipeline to the east.

On balance this proposal represents a suitable form of development to provide an essential public amenity with significant biodiversity enhancement including planting of over 1300 trees, significant areas of shrubs and wildflower planting, as well as ornamental trees and bulb planting. The tree loss is justifiable under the Scottish Government's Control of Woodland Removal Policy, and the proposal is therefore considered to be an acceptable departure from NPF Policy 6 – Forestry, Woodland, and Trees and MLDP Policy EP7 – Forestry, Woodland and Trees, both of which presume against the loss of ancient woodland. The proposal is subsequently an acceptable departure under biodiversity policies NPF Policy 3 and MLDP Policy EP2.

The proposal complies with National Planning Framework 4 and the Moray Local Development Plan 2020 in all other respects and there are no material considerations that indicate otherwise.

**Author/Contact
Officer:**

Andrew Miller
Acting Principal Planning Officer

Ext: 01343 563274

**Neal MacPherson
Acting Development Management & Building Standards Manager**