

**19/00811/APP**  
**19th July 2019**

**Variation of Condition 1 of previous permission Ref:  
15/01092/APP to reduce the number of affordable units  
from 43 to 37 at R7 Spynie Hospital North Elgin Moray  
for Robertson Homes**

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**Comments:**

- A SITE VISIT HAS BEEN CARRIED OUT
- The proposal (as a whole or in part) has previously been reported to Committee or to a Departure Hearing (Special Committee Meeting) and the appointed officer considers that significant amendments have been made to any previous application for Committee to reconsider the development
- The application was advertised for neighbour notification purposes
- No representations received

**Procedure:**

Amendment to existing S.75 required prior to decision being issued.

**Recommendation**

Grant Planning Permission - Subject To The Following:-

**Conditions/Reasons**

1. Condition 2 as attached to the applications for planning permission as granted under formal decision notice 15/01092/APP is hereby varied and shall be substituted by the following: "The plot substitutions hereby approved including house types and site layout arrangements as hereby approved relate to the provision of 37 affordable houses (as defined and subject to the detailed arrangements for the delivery of this accommodation as set out within a Section 75 agreement associated with this application) and the affordable housing accommodation development as hereby approved shall not be used for any other housing purposes without the prior written consent of the Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development in accordance with the applicant's submitted particulars, to provide for at least the partial provision and delivery of affordable housing on the site at Spynie (in accordance with the requirements of condition 10 of formal decision notice 08/02766/FUL dated 9 December 2009) wherein the accommodation as hereby approved (including the

arrangements for delivery of the accommodation) is considered as an acceptable alternative to that previously approved, and to retain control over the use of the site and ensure that consideration is given to the effects and impact of other housing uses other than that approved herewith.

2. The development hereby granted forms part of, and is related to, a development granted planning permission under formal decision notice 08/02766/FUL dated 9 December 2009 wherein the terms and conditions as attached to that permission are hereby reiterated and remain in force in so far as they relate to the development hereby approved, in particular Conditions 3 - 26 inclusive, including any details already approved thereunder to discharge the requirements of the identified conditions; and no part of the development hereby granted shall be exercised in conjunction with, or in addition to, the house design and plot layout details already approved for this part of the development.

**Reason:** To ensure an acceptable form of development and that it progresses in accordance with the already approved and required details and that only one permission is implemented, the house designs and plot layout arrangements hereby approved being considered as an acceptable alternative to that already approved and not an addition thereto.

3. All landscaping shall be carried out in accordance with the submitted report AREA 1, SPYNIE, ELGIN OUTLINE LANDSCAPE SPECIFICATION AND MAINTENANCE SCHEDULE dated August 2019 and approved plan 1108/PL01. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the commencement of development any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site

4. All surface water drainage proposals shall be in accordance with the submitted report Drainage Impact Assessment A/181043 AFFORDABLE RESIDENTIAL DEVELOPMENT, HAMILTON GARDENS, SPYNIE, ELGIN, dated July 2019.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

5. Parking provision shall be provided as follows:
  - 2 spaces for a dwelling with three bedrooms or less; or
  - 3 spaces for a dwelling with four bedrooms or more.

The car parking spaces shall be provided within the site prior to first occupation or completion of the dwellinghouse, whichever is the sooner. Thereafter, the parking spaces shall be retained throughout the lifetime of the development.

**Reason:** To ensure an acceptable development is provided in terms of parking provision.

6. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- duration of works;
  - construction programme;
  - measures to be put in place to prevent material being deposited on the public road;
  - measures to be put in place to safeguard the movements of pedestrians;
  - traffic management measures to be put in place during works including any specific instructions to drivers; and
  - parking provision, loading and unloading areas for construction traffic.

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

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

#### **Reason(s) for Decision**

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

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

#### **List of Informatives:**

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

This development is subject to a S.75 in regard to the arrangements for delivery of affordable housing and any necessary associated commuted payment.

A Building Warrant will be required for the development.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which: is more than 4 hectares, is in excess of 5km, or includes an area of more than 1 hectare, or length of more than 500m, on ground with a slope in excess of 25°. Please see SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at: 28 Perimeter Road, Pinefield, Elgin, IV30 6AF. Tel: 013473 547663.

<b>LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT</b>	
<b>Reference No. Version No.</b>	<b>Title/Description</b>
18171(OS)001-A	Location Plan
904 2	Combined services layout
18171(PL)101	House type C - elevations and floor plans
18171(PL)100	House type A and B - elevations and floor plans
18171(PL)102	House type D - elevations and floor plans
18171(PL)103	House type E - elevations and floor plans
18171(PL)104	House type F - elevations and floor plans
18171(PL)105	House type G - elevations and floor plans
902 3	Proposed drainage layout
901 3	Proposed roads layout
903 2	Proposed site levels
1108/LP01	Landscape proposals
18171(PL)001 A	Proposed site layout



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**18/00811/APP**

**Site Address:**

R7 Spynie Hospital North  
Elgin

**Applicant Name:**

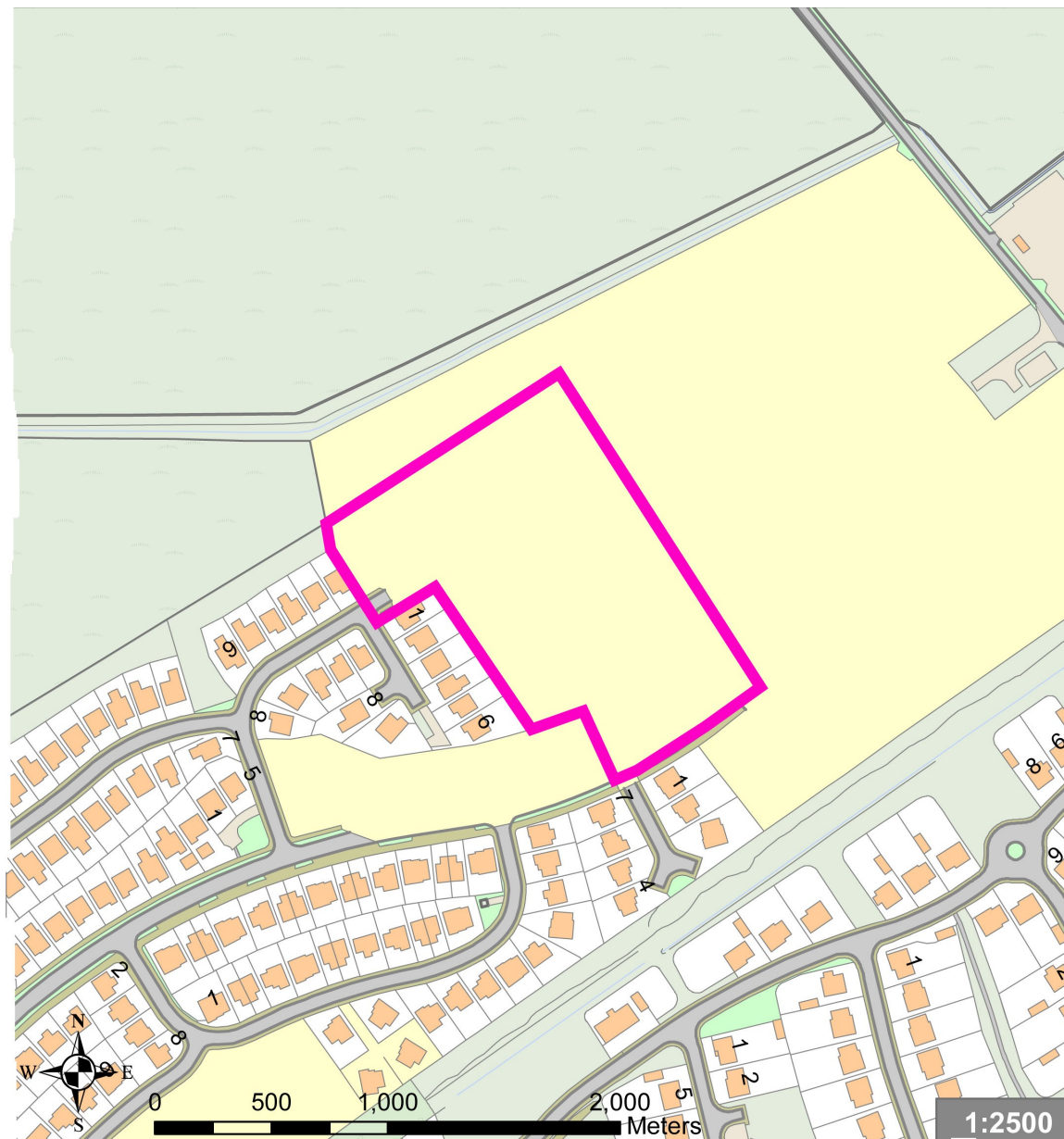
Robertson Homes

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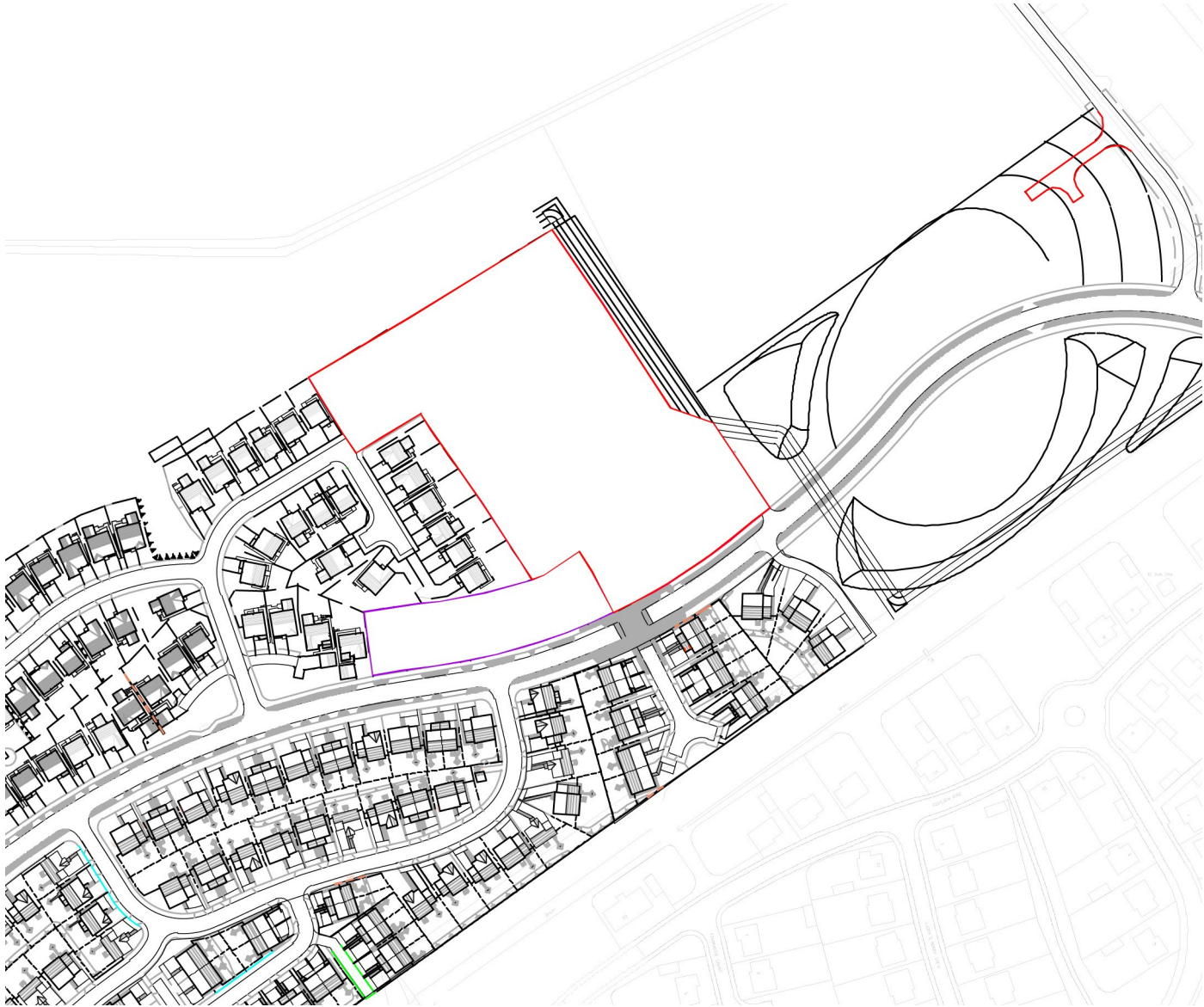
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## Location Plan



**Site Location**





Site plan











## PLANNING APPLICATION: 19/00811/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*

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### **THE PROPOSAL**

- This application seeks planning permission to vary condition 1 of application reference 15/01092/APP to reduce the number of affordable units approved from 43 to 37 and amend the proposed house types. Six other units are proposed to be off-set to another site (R14 Lesmurdie).
- The units will be taken by a housing association (Hanover Housing) and will be made available for affordable rent.
- Seven different house types are proposed. Type A, and Type B are 1 bedroom duplex blocks, Type C is a 2 bedroom single storey semi-detached unit, Type D is a 2 bedroom single storey detached house with a car port, Type E is a 2 bedroom single storey detached house, Type F is a 3 bedroom two storey semi-detached block and Type G is a 4 bedroom two storey detached house.
- The houses will be finished in a dry dash render with grey concrete tiles on the roof and additional detailing in reconstituted stone.
- Landscaping is proposed throughout the site.
- Connections to the public water supply and public drainage network are proposed.
- Details of the proposals for surface water drainage have been provided.
- The road network is in place and no new access arrangements are required.
- The application is supported by a Planning Statement, Drainage Impact Assessment, Landscape Specification and Maintenance Schedule and a Site Investigation Report (submitted in support of the original application).

### **THE SITE**

- The site is in the north east corner of the Elgin R5 Spynie Hospital North site as identified in the Moray Local Development Plan (MLDP) 2015.
- The site extends to 1.2ha.
- Planning Permission (15/01092/APP) for 43 affordable housing units is in place. This permission has been commenced.
- The overall designated site extends to 21.63ha and has planning permission for 435 units.
- The majority of the houses and the road network for the overall designated site have been completed under the 2008 permission.

### **HISTORY**

15/01092/APP - Plot substitution for house types approved under 08/02766/FUL – Granted 30/05/16.

08/02766/FUL - Erect a residential development of 435 units comprising houses and flats with associated road network and landscaping at Spynie – Granted 04/08/09.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

Advertised for neighbour notification purposes.

## **CONSULTATIONS**

### **Strategic Planning & Delivery:**

- It is noted that the site has consent under 08/02766/FUL and that to an extent the road layout is relatively fixed as a result. It is also noted that the majority of the wider development is now built and this has defined the character of the area as one of more modern housing of similar house types. However, it is noted that the materials proposed and features (e.g. porches) differ to the established character.
- Given the above it is accepted that the extent to which the proposal can be amended to bring this in line with current policies is more limited. However, in reviewing the layout there are a couple of areas where the proposal does not comply with policy PP3 Placemaking and associated Urban Design Supplementary Guidance.
- It is noted that the proposal reduces the number of affordable housing within the development. The principle of this and compliance with Policy H8 Affordable Housing must be agreed with the Council's Housing service.

**PO comments:** In response to these comments a revised site plan and a landscaping plan have been submitted. The revised details show parking broken up around plots 28-37 and additional planting to create a more effective place.

**Developer Obligations:** The development represents a reduction in the approved scheme so no developer obligations will be sought.

The legal agreement relating to 15/1092/APP will require to be modified to take account of the current application and to address the remaining 6 units which are to be transferred to Lesmurdie Field (R14).

### **Housing:**

- The planning consent 08/02766/FUL required delivery of 87 affordable units. 44 units are being provided by Scotia and completion is expected during 2019/20 (17/00607/APP). 43 units to be provided by the applicant remain outstanding (15/01092/APP).
- The affordable housing mix required cannot fit into the space available.
- Given the history of the site, and the unique set of circumstances associated with delivery of affordable housing at R5 Spynie, the proposals are acceptable provided that all outstanding affordable units are provided within the Elgin Housing Market Area, if planning permission is not achieved for all the outstanding units within 2



years of the date of this decision then a commuted sum must be paid in lieu of the required units. This is to be agreed by a legal agreement.

**Transportation:** No objection subject to conditions tying the permission to the original 2008 planning permission (08/02766/APP) and to control parking for this development.

**Contaminated Land:** No objection.

**Environmental Health:** No objection.

**Moray Flood Risk Management:** No objection.

**Archaeology:** No objection.

**SEPA:** No objection provided that servicing arrangements are in accordance with the previous approval.

**Scottish Water:** No objection.

**SNH:** No objection.

## **OBJECTIONS-REPRESENTATIONS**

No representations 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. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

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

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.
- The weight to be given will be considered on a case by case basis and will be agreed by the Development Management & Building Standards Manager and Strategic Planning & Delivery Manager.

In this case the proposal is subject to a designated site which will not be subject to the Examination process and therefore will be given greater weight.

The main issues are considered below.

### **Planning History**

Planning Permission (08/02766/APP) is in place for 435 units across the R5 Spynie site. The original permission was granted subject to a condition that required 87 affordable units to be provided. Subsequently an application (10/01114/APP) by the same developer at Bilbohall (now Fairfield Avenue) was approved which included the transfer of eight affordable units to the R5 Spynie site. This was in addition to the requirement for 87 affordable units arising from the R5 development itself. These 8 units are currently the subject of a separate application (19/00800/APP) to amend the house types.

In order to meet the affordable housing requirements for the R5 site 44 affordable units have already been approved (17/00607/APP) on another part of the site and work is currently under way on that development. An application (15/01092/APP) for the remaining 43 units has also been approved and that permission has been partially implemented. The current application seeks to vary the terms of this application to reduce the number of units from 43 to 37 and off-set the remaining 6 units required to another designated site in Elgin (R14 Lesmurdie Fields). Any future application will be required to show the six units on the plans as part a first phase.

### **Affordable Housing (H9)**

This part of the site has been identified for affordable housing since the time of the original application (08/02744/FUL). The planning permission in place (15/01092/APP) shows 43 affordable units. This would meet the outstanding affordable housing requirement for the R5 Stynie site in its entirety. This consent has been implemented and work could continue in accordance with the approved plans. However, it is now recognised that the required housing mix cannot be accommodated in the space available. The proposal therefore is to reduce the currently approved units at Spynie from 43 to 37. A Housing Association is in place and the units will be made available for affordable rent. This will leave a shortfall of six which must be provided to meet the terms of the original planning permission. The developer proposes to off-set this contribution to another site (R14 Lesmurdie Fields).

While the current proposal will lead to a reduction of the approved affordable housing on site and create a requirement to off-set some of the required affordable housing units this is not considered to be a departure from policy. The affordable housing Supplementary Planning Guidance (SPG) makes clear that while the preference is for on-site provision there may be practical reasons that make on-site provision difficult or unviable. In this case it has become apparent that the identified housing mix cannot be accommodated in the space available on the R5 site. The current proposal will result in the provision of affordable units on the ground in a manner that meets current housing need in Elgin and is supported on that basis. The intention is to provide the off-set units on the Elgin R14 Lesmurdie Fields site which is within the Elgin Housing Market. Should these proposals be accepted but planning permission for the off-set units on the R14 not be secured within 2 years of the date of the decision then a commuted sum will be paid in lieu of the 6 unit contribution. It is recommended that these arrangements are controlled through an amendment to the legal agreement in place for 15/01092/APP. The proposals will result in affordable housing on the ground in a way that will address current affordable housing need in Elgin. The off-set units will still be provided within the Elgin Housing Market and

measures will be put in place to secure the affordable housing requirements for the R5 site are ultimately met. The Housing Strategy and Policy Manager support the application and the proposals comply with policy H9.

### **Design and Materials (H1 & IMP1)**

Seven new house types (A-G) are proposed. Type A, and Type B are 1 bedroom duplex blocks, Type C is a 2 bedroom single storey semi-detached unit, Type D is a 2 bedroom single storey detached house with a car port, Type E is a 2 bedroom single storey detached house, Type F is a 3 bedroom two storey semi-detached block and Type G is a 4 bedroom two storey detached house. All the house types will be finished in a dry dash render with dark grey concrete tiles on the roof. All the house types will be finished in a dry dash render with dark grey concrete tiles on the roof and additional detailing in reconstituted stone. These house types are not currently found elsewhere in the R5 development but types F and G are currently proposed in application 19/00800/APP on an adjoining part of the R5 site. All the house types have a simple form and style with additional interest provided in the form of front porch or entrance canopy details.

The originally approved houses on these plots are all two storey houses and are a combination of 2 and 4 bedroom units. They are arranged in a combination of detached, semi-detached and terraced blocks. The materials are the same as currently proposed. The approved house types are similar in style and appearance to those currently proposed. The house types differ from those approved elsewhere on the R5 development but are similar in terms of form and style. The proposed house types will sit comfortably alongside the house types already approved and will be broadly in keeping with the character of the overall development.

### **Layout and Landscaping (PP3, H1 & IMP1)**

The layout is constrained by the development carried out to date under the existing permission which has resulted in limited space for the remaining part of the development. The proposed layout is in keeping with the layout of the wider development. While the limitations of the site are recognised steps have been taken to bring the scheme in line with current policy on placemaking. The parking for plots 26-37 has been broken up to make it less dominant in the street scene. A landscaping plan has been provided which shows planting to break up the impact of parking and soften the views particularly from plots 34-37 which would otherwise look onto the rear gardens of the opposite properties. Additional planting is proposed around plot 12 to strengthen the distinction between public and private space on this part of the site. The proposed planting will serve to create a stronger sense of place and will help to assimilate the proposed development into the existing scheme and the surrounding area. It is recommended that the provision and maintenance of the landscaping proposals are controlled by condition. The placemaking measures are considered sufficient in the context of this limited site.

The relationship between the proposed houses and surrounding houses is similar to that of the already approved houses. The number of units is being reduced resulting in a less dense development which will reduce the impact on the amenity of neighbouring houses or the surrounding area. The positioning of the houses and the windows has been considered to take account of surrounding plots and will not give rise to any unacceptable privacy or overlooking issues.

### **Drainage and Water Supply (EP5 & EP10)**

A Drainage Impact Assessment (DIA) has been provided for the development. This sets out the proposals for foul and surface water drainage. The arrangements will be connected to the existing drainage arrangements for the R5 site (08/02744/FUL).

The proposals for surface water are detailed in the DIA. A condition is recommended requiring these details to be implemented in full. The development will connect to the previously approved system. The SuDS scheme for the original development was designed to avoid any adverse impact on the catchment of Loch Spynie SPA. Surface water run-off from the current development will partly be discharged to a SuDS pond and basin already approved as part of the wider R5 Spynie development. These features will be adopted by Scottish Water. Subject to a condition the proposals will comply with policy EP5.

The development will be connected to the public sewer and water supply. Some alterations to the new sewer network will be required to accommodate the proposed amendments to the development. Neither Scottish Water or SEPA has any objection to the proposal. The proposals accord with policy EP10.

### **Access and Parking (T2 & T5)**

The road network serving the site has already been provided under the previous permission (08/02766/FUL) and no changes are required to accommodate the current proposal. The proposed internal layout is constrained by the space available but is considered to be acceptable.

The development will remain subject to the remaining conditions on the permission that is being varied (15/01092/APP) and it is recommended that it is tied by condition to the terms of the original permission for the R2 site (08/02766/FUL) in relation to access and active travel measures.

Parking will be provided for each unit in accordance with current policy. A condition is recommended to ensure that the parking is provided in a timely manner. The level of parking provided is in accordance with policy T5.

It is recommended that a Construction Phase Traffic Management Plan is sought by condition to ensure that construction traffic is appropriately managed.

Subject to the recommended conditions the proposals comply with policies T2 and T5 and will ensure acceptable access and parking for the development.

### **Developer Obligations (IMP3)**

The proposal has been assessed for developer obligations in line with policy IMP3 and it is noted that the proposal represents a reduction in the approved scheme. Obligations were sought as part of the original application (08/02766/APP) and no further obligations are sought at this time.

### **Recommendation**

The application will provide affordable housing on the ground to meet current housing need in Elgin. The off-setting of units to another designated site is considered to be acceptable in this instance as it is not practicable to achieve the identified housing mix on the current site. The development is acceptable in terms of its siting, layout and design



and accords with policy. It is recommended that planning permission is granted in accordance with the recommended conditions.

**REASON(S) FOR DECISION**

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

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise

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**Ext:** 01343 563479

**Beverly Smith  
Development Management & Building Standards Manager**



## **APPENDIX**

### **POLICY**

#### **Adopted Moray Local Development Plan 2015**

#### ***Moray Local Development Plan 2015 - Material Consideration***

#### **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 H1: Housing Land**

### **Designated sites**

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

### **Windfall sites within settlements**

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

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use
- d) The requirements of policies PP2, PP3 and IMP1 are met.

### **Housing Density**

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



## **Policy H8: Affordable Housing**

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

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

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

## **Policy 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 EP8: Pollution**

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

## **Policy EP9: Contaminated Land**

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

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

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

### **Policy EP10: Foul Drainage**

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

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

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

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

## **Policy 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 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 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 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.

## **R5: Spynie Hospital North**

This 21.63 ha site has planning consent for 435 units which was granted in 2009. The site is currently being developed and there are under 277 units remaining to be built. The site has overhead cables that will have to be relocated underground. Development proposals should safeguard the integrity of Loch Spynie SPA.

## **Proposed Moray Local Development Plan 2020**

### **PP1 PLACEMAKING**

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;
  - (i) **Character and Identity**
    - Create places that are distinctive to prevent homogenous 'anywhere' development.
    - For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
    - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.
    - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.

- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

**(ii) Healthier, Safer Environments**

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

**(iii) Housing Mix**

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

**(iv) Open Spaces/Landscaping**

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active

travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

**(v) Biodiversity**

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and connect into wildlife corridors/ green networks and prevent fragmentation of existing habitats.

**(vi) Parking**

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor

- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

**(vii) Street Layout and Detail**

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

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

**PP2 SUSTAINABLE ECONOMIC GROWTH.**

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

**DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

(i) **Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained.

- i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) **Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage



area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

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

**DP2 HOUSING.**

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

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

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

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

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

**c) Housing density**

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

**d) Affordable Housing**

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

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

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

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

**e) Housing Mix and Tenure Integration**

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

Proposals must demonstrate tenure integration and meet the following criteria;

- Architectural style and external finishes must ensure that homes are tenure blind.

- The spatial mix must ensure communities are integrated to share school catchment areas, open spaces, play areas, sports areas, bus stops and other community facilities.

#### **f) Accessible Housing**

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

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

### **EP1 NATURAL HERITAGE DESIGNATIONS.**

#### **a) Natura 2000 designations.**

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

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

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

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

#### **b) National designations.**

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

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

### **c) Local Designations**

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

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

### **d) European Protected Species**

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

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

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

### **e) Other protected species.**

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

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

## **EP5 OPEN SPACE.**

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

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

Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused. The only exceptions are where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners, excluding housing, or for a site specific opportunity identified within the settlement statement. Where one of these exceptions applies, proposals must;

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

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

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

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

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

## **b) Green Infrastructure and Open Space in New Development.**

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

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

### **i) Accessibility Standard.**

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

### **ii) Quality Standard.**

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

#### **Accessible and well connected.**

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

#### **Attractive and Appealing Places.**

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

**Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).**

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

**Promotes activity, health and well being.**

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

**Safe, Welcoming and contributing to Character and Identity.**

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

**iii)Quantity Standard.**

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

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

In meeting the quantity requirements, only spaces which have a clear multi benefit function will be counted. Structure and boundary landscaping areas must make provision



for public access and link into adjacent green corridors. The quantity standard must be met within the designation boundaries. For windfall sites the quantity standard must be new open space provision within the application boundaries.

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

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

## **EP8 HISTORIC ENVIRONMENT.**

### **a) Scheduled Monuments and National Designations.**

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

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

### **b) Local Designations.**

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

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

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

## **EP13 FOUL DRAINAGE**

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

- Systems must not have an adverse effect on the water environment.
- Systems must be designed and built to a standard which will allow adoption by Scottish Water.

- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

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

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

## **EP14 POLLUTION, CONTAMINATION & HAZARDS.**

### **a) Pollution.**

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

### **b) Contamination.**

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

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

### **c) Hazardous sites.**

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

## **R10 Spynie Hospital North 21.63 ha 435 units**

- Development commenced. 202 units remaining.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.

- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of houses to mains water and sewerage

## **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.