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## Planning and Regulatory Services Committee

Tuesday, 08 October 2019

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Planning and Regulatory Services Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 08 October 2019** at **09:30**.

### BUSINESS

**1 Sederunt**

**2 Declaration of Group Decisions and Members Interests \***

**3 Resolution**

Consider, and if so decide, adopt the following resolution:  
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 16 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

**4 Minute of Meeting dated 20 August 2019** **7 - 32**

**5 Written Questions \*\***

**Guidance Note** **33 - 34**

**6 Planning Application 19/00211/APP** **35 - 64**

Report by Appointed Officer

Change of use of farm sheds to whisky cask warehouses at Viewfield Farm Craigellachie Aberlour Moray for Forsyths Ltd

**7 Planning Application 19/00517/APP** **65 - 120**

Report by Appointed Officer

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|-----------|---|----------------------|
| <b>8</b>  | <b>Planning Application 18/01453/APP</b><br>Report by Appointed Officer   | <b>121 -<br/>212</b> |
| <b>9</b>  | <b>Planning Application 19/00800/APP</b><br>Report by Appointed Officer   | <b>213 -<br/>252</b> |
| <b>10</b> | <b>Planning Application 19/00811/APP</b><br>Report by Appointed Officer<br><br>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 | <b>253 -<br/>294</b> |
| <b>11</b> | <b>Planning Application 19/00547/APP</b><br>Report by Appointed Officer   | <b>295 -<br/>342</b> |
| <b>12</b> | <b>Planning Application 19/00794/APP</b><br>Report by Appointed Officer   | <b>343 -<br/>372</b> |
| <b>13</b> | <b>Overnight Parking of Motorhomes on Car Parks</b><br>Report by Depute Chief Executive (Economy, Environment and Finance)  | <b>373 -<br/>384</b> |
| <b>14</b> | <b>Moray Local Development Plan 2015 - Annual Monitoring Report</b><br>Report by Depute Chief Executive (Economy, Environment and Finance)  | <b>385 -<br/>442</b> |
| <b>15</b> | <b>Question Time ***</b><br><br>Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.  |                      |

**Item(s) which the Committee may wish to consider with the Press and Public excluded**



## **16 Tree Preservation Orders**

- Information, which if disclosed to the public, would reveal that the Authority proposes, for the purposes of consultation, make an order or direction under any enactment which might allow an individual or organisation to defeat the purpose of the notice or order;

### **Summary of Planning and Regulatory Services**

#### **Committee functions:**

Town and Country Planning; Building Standards; Environmental Health; Trading Standards; Weights & Measures, Tree Preservation Orders, and Contaminated Land issues.

**Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.**

\* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

\*\* **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

\*\*\* **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

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# **THE MORAY COUNCIL**

## **Planning and Regulatory Services Committee**

### **SEDERUNT**

Councillor David Bremner (Chair)  
Councillor Amy Taylor (Depute Chair)  
Councillor George Alexander (Member)  
Councillor John Cowe (Member)  
Councillor Gordon Cowie (Member)  
Councillor Paula Coy (Member)  
Councillor John Divers (Member)  
Councillor Ryan Edwards (Member)  
Councillor Claire Feaver (Member)  
Councillor Louise Laing (Member)  
Councillor Marc Macrae (Member)  
Councillor Aaron McLean (Member)  
Councillor Ray McLean (Member)

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**MORAY COUNCIL**

**MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES  
COMMITTEE**

**20 AUGUST 2019**

**COUNCIL CHAMBERS, ELGIN**

**PRESENT**

Councillors D Bremner (Chair), A Taylor (Depute), G Alexander, G Cowie, P Coy, C Feaver, L Laing, M Macrae, A McLean and R McLean.

**APOLOGIES**

Apologies were intimated on behalf of Councillors J Cowe, J Divers and R Edwards.

**IN ATTENDANCE**

Head of Development Services, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Mr G Templeton, Principal Planning Officer, Mrs D Anderson, Senior Engineer (Transport Development), Mrs F Geddes, Acting Housing Strategy and Development Manager, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

**1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS**

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Laing declared an interest in item 9b) on the Supplementary Agenda "Planning Application 19/00550/APP - Erection of 6 apartments at Linkwood Steading, Linkwood Road, Elgin, Moray for Springfield Properties PLC".

There were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any other declarations of Member's interests in respect of any item on the agenda.

**2. EXEMPT INFORMATION**

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

**Paragraph No. of Minute**

**Paragraph No. of Schedule 7A**

14

13 - Information, which if disclosed to the public, would reveal that the Authority proposes, for the purpose of consultation, make an order or direction under any enactment which might allow an individual or organisation to defeat the purpose of the notice or order.

**3. MINUTES**

The minutes of the meetings of the Planning and Regulatory Services Committees dated 21 May 2019 and 25 June 2019 were submitted and approved.

**4. WRITTEN QUESTIONS**

The Committee noted that no written questions had been submitted.

**5. PLANNING APPLICATION 19/00211/APP**

**WARD 1: SPEYSIDE GLENLIVET**

**Change of use of farm sheds to whisky cask warehouses and general storage sheds at Viewfield Farm, Craigellachie, Aberlour, Moray for Forsyths Ltd**

The Committee noted that this planning application had been withdrawn from the agenda in order to obtain clarification on discrepancies between background supporting documents.

**6. PLANNING APPLICATION 18/01373/APP**

**WARD 1: SPEYSIDE GLENLIVET**

**Residential development and associated infrastructure on Land at R4 Speyview, Aberlour, Moray for Springfield Properties PLC**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for a residential development and associated infrastructure on Land at R4 Speyview, Aberlour, Moray for Springfield Properties PLC.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the development is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site. The report also advised that Members of the Committee visited the site of the application on 16 August 2019.

During his introduction, Mr Smith, Principal Planning Officer advised that 2 representations; one from Maureen Brown and Rob Ayland, 1 Kinemony Farm Cottages and Meryn and Heather Campbell c/o Stuart McGavie, had been omitted from the report in error however their comments had been taken into account and summarised within the report. This was noted.

Following consideration, the Committee agreed to:

- (i) note that 2 representations had been omitted from the report however the comments made had been taken into account and summarised within the report; and
  - (ii) grant planning permission in respect of planning application 18/01373/APP, as recommended, subject to:
    - a) the completion of a legal agreement; and
    - b) the following conditions and reasons.
1. Prior to the commencement of any works, a full site Construction Environmental Management Plan, including a dedicated pollution prevention section, shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with SEPA; and thereafter all work shall be carried out in accordance with the approved plan.

**Reason** - In order to minimise the impacts of necessary construction works on the environment.

2. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Detailed Landscaping Layout drawing number AB02\_L\_01 Rev C and Landscape Management Plan AB02\_L\_02, and show and clarify the following:
- (a) extension of the natural stone wall to the side/south of plots 1 and 28,
  - (b) clarification of the locations of the proposed beech and box hedging,
  - (c) inclusion of a reference 'QR' Oak Roaster within the Planting Schedule to correspond with the 'QR' annotations on the layout drawing.
  - (d) the arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken on the site, and including the planting blocks to the southeast and northeast shown out with the site boundary on the supporting masterplan drawing (June 2019).

Thereafter, the landscaping arrangements shall be carried out in accordance with the approved scheme details. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council as Planning Authority gives written consent to any variation of this planning condition.

**Reason** - In order to remove any ambiguity regarding the terms of the landscape scheme, to also ensure structural planting blocks are provided to help integrate this phase of the development and to ensure that the approved landscaping works are timeously carried out and properly maintained in a

manner which will not adversely affect the development or amenity and character of the area.

3. Prior to the commencement of development details of the affordable housing specification shall be submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site.

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

**Reason** - To ensure all off the residential units approved on site are affordable and managed accordingly.

4. A construction phase surface water management plan shall be submitted a minimum of two months prior to the commencement of the development and shall be agreed in writing prior to work commencing with the Planning Authority in consultation with Moray Flood Risk Management. The plan shall include measures to prevent increased flood risk to neighbouring properties and measures to ensure heavily silted surface water does not enter the River Spey catchment. Thereafter the development shall be carried out in accordance with the agreed details.

**Reason** - To prevent surface water flooding during the course of the development and minimise risk to the River Spey SAC.

5. Notwithstanding the details shown in the approved landscaping plan and unless otherwise agreed in writing with the Planning Authority, the rear boundary enclosures facing onto the road of plots 1 to 8 shall comprise a 0.8m high wall finished in wet harl and a 1m high timber fence on top of the wall. This enclosure shall be retained as such throughout the lifetime of the development.

**Reason** – To break up the massing and dominance of this rear boundary enclosure on the street scene.

6. Prior to development commencing, details of the road surfacing/colouration between points A and B on the approved site plan shall be submitted to and agreed in writing with the Planning Authority. This section of road shall have a different finish/colouration to the remainder of the roads in the development. Thereafter the roads shall be finished in accordance with the agreed details.

**Reason** – To emphasise the street hierarchy and improve legibility of the development.

7. Unless otherwise agreed in writing with the planning authority, the equipped play area shall be provided in accordance with the approved plans prior to the commencement of the 20th residential unit on site. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan AB02\_L\_02 for the lifetime of the development.



**Reason** - To ensure the timeous provision of the play area and surrounding open space.

8. All surface water drainage infrastructure within the development shall be implemented in accordance with the details contained in the approved 'Drainage Assessment' and associated drainage AB01\_ENG\_250, AB02\_ENG\_220 A and AB02\_ENG\_600 B. Unless otherwise agreed in writing with the planning authority, this drainage infrastructure will be completed prior to the first occupation of any housing unit in the development and thereafter maintained for the lifetime of the development in accordance with the approved 'Drainage Assessment'.

**Reason** - To ensure an acceptable form of development is provided in accordance with intentions stated in the submitted Drainage Assessment, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development.

9. Prior to the commencement of development (with the exception of works to form the access) the proposed ghost island priority junction with the A95 (T), as illustrated in Cameron + Ross Drawing No. A/180471-901 (Revision 5) "Proposed Ghost Island Layout" shall be constructed and agreed in writing by the Planning Authority, following consultation with Transport Scotland.

**Reason:** To ensure that the standard of access layout complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

10. Prior to the occupation or completion of any of the dwelling houses hereby approved, whichever is the sooner, a new footway along the east side of the re-aligned A95 (T), as illustrated in Springfield Properties Drawing No. AB02-ENG-260 (Revision A) "A95 Re-Alignment", shall be constructed and agreed in writing by the Planning Authority, following consultation with Transport Scotland.

**Reason:** To ensure that facilities are provided for the pedestrians that are generated by the development and that they may access the existing footpath system without interfering with the safety and free flow of traffic on the trunk road

11. Prior to the occupation or completion of any of the dwelling houses hereby approved, whichever is the sooner, the proposed bus stop lay-bys on both sides of the A95 (T), as illustrated in Cameron + Ross Drawing No. A/180471-905 "Proposed Bus Stop Locations", shall be constructed to the satisfaction of the Planning Authority, following consultation with Transport Scotland.

**Reason:** To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.

12. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and agreed in writing with the Planning Authority, following consultation with Transport Scotland and thereafter implemented in accordance with the agreed details.

**Reason:** To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

13. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and agreed in writing with the Planning Authority, following consultation with Transport Scotland and thereafter implemented in accordance with the agreed details.

**Reason:** To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents

14. There shall be no drainage connections to the trunk road drainage system.

**Reason:** To ensure that the efficiency of the existing trunk road drainage network is not affected.

15. Notwithstanding the details submitted on the site layout drawing (Drawing No AB02\_PL\_01 Rev G), prior to the commencement of development the following details shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:

- a) Details (Plan Scale 1:500 minimum) showing the locations of all pedestrian crossing facilities throughout the development including details of all dropped kerbs and tactile paving to the Moray Council standards and specifications;
- b) Details (Plan Scale 1:500 minimum) showing extent of all roads, cycle ways and footways to be adopted, including the proposed footway along the frontage of plots 1 to 8; and
- c) Details, including maintenance details, of all hedges to be planted adjacent to parking spaces which shall be planted at least 1.0 metres from the edge of the parking space to readily enable access into and out of parked vehicles at all times.

Thereafter the development shall be constructed in accordance with the approved details.

**Reasons:**

- a) To ensure acceptable development that does not create any hazard to road users in the interests of road safety through the provision of details currently lacking.
  - b) To ensure acceptable development through the provision of details currently lacking.
  - c) To ensure an acceptable development in terms of parking provision and amenity of the area.
16. Prior to the commencement of development the following shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
- a) A Construction Traffic Management Plan which includes details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 minimum) and proposals to safeguard non-motorised road users;
  - b) Details (Plan scale 1:500) which show the provision of a temporary turning area, including details of all materials to be used in the construction of the

turning area, adjacent to Plots 35/36 to provide a turning facility for refuse collection vehicles and other visiting vehicles.

The approved Construction Traffic Management Plan must be complied with at all times. The works identified in b) shall be completed prior to the first occupation or completion, whichever is the sooner, of any of the houses on plots numbered 29 to 36 and shall be retained until such time that the roads connecting Plots 35/36 and Plots 13/14/15/16 are connected and available for use by visiting service vehicles.

**Reasons:**

- a) To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
- b) To ensure acceptable infrastructure to service the development through the provision of details currently lacking.

17. Prior to the commencement of development a Travel Information Pack, which sets out opportunities for travel by foot, cycle and public transport, shall be submitted for approval by the Planning Authority in consultation with the Roads Authority. The Travel Information Pack shall include:

- a) Information on routes for pedestrians and cyclists to access local facilities.
- b) Information on the provision of bus services serving the development.
- c) Details of how to access personal Travel Planning and of incentives to travel by foot, cycle and public transport.
- d) Details of the programme for updating the Travel Information Pack as the development progress.

The approved Travel Information Pack shall thereafter be provided to each dwelling as they are completed from the date of first completion of any part of the residential development.

**Reason:** To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

18. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

19. The width of the individual vehicular access shall be 3.0m – 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway shall be to The Moray Council specification and surfaced with bituminous macadam.

**Reason:** To ensure acceptable infrastructure at the individual development accesses.

20. Parking Provision shall be provided and maintained for use in accordance with the approved site layout plan (Drawing No AB02\_PL\_01 Rev G) unless otherwise agreed in writing with Moray Council Transportation.

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

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

**Reason:** To ensure acceptable development in the interests of road safety.

22. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. This should comprise an archaeological trial trenching evaluation of 7-10% of the total proposed development site, to be undertaken by a suitably qualified archaeological contractor, the results of which will be used to inform whether further mitigation is required. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

23. No development shall commence until details of protection measures of existing private water supplies leading through the site (both during construction and for the lifetime of the development) have been submitted to and agreed in writing with the Council as Planning Authority. Thereafter the development shall be implemented in accordance with the agreed details, unless otherwise agreed with the Planning Authority.

**Reason:** In order to safeguard the water supplies which serve the neighbouring houses.

24. Prior to development commencing, cross sections through the proposed play area shall be submitted to and agreed in writing with the planning authority. Thereafter the play area shall be provided in accordance with the agreed details.

**Reason:** To ensure the play area is provided at an acceptable gradient, to maximise the functionality of this facility.

## **7. PLANNING APPLICATION 19/00513/APP**

### **WARD 2: KEITH & CULLEN**

## **Erect dwelling houses with off street parking on Plots 45 - 48 St John Ogilvie Way, Keith, Moray, AB55 5LA for Morlich Homes Ltd**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application to erect dwelling houses with off street parking on Plots 45 - 48 St John Ogilvie Way, Keith, Moray, AB55 5LA for Morlich Homes Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site. The report also advised that Members of the Committee visited the site of the application on 16 August 2019.

Following consideration, the Committee agreed to grant planning permission in respect of planning application 19/00513/APP, as recommended, subject to the following conditions and reasons.

1. No development shall commence until details of the type and colouration of the stone facing on the front elevation of the dwellings has been submitted to and approved in writing by the Council as Planning Authority. Thereafter the development shall be implemented in accordance with these approved details.

**Reason:** In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

2. The 1.8m high fencing as shown on the approved site plan shall be erected prior to occupation or completion of the respective dwelling house which that fencing serves, and thereafter maintained for the lifetime of the development unless otherwise agreed in writing by the Council as Planning Authority.

**Reason:** To protect the privacy of neighbouring occupiers.

3. All drainage arrangements shall be installed in accordance with the submitted Drainage Statement: Strathisla Park, Keith as prepared by Gary Mackintosh Bsc, prior to completion or first occupation of the dwelling houses whichever is the sooner, unless otherwise agreed in writing by the Council as Planning Authority.

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

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

**Reason:** To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

5. The width of each vehicular access shall be as shown, and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public

carriageway. The part of the access over the public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam.

**Reason:** To ensure acceptable infrastructure at the development access.

6. Drop kerbs shall be provided across the access to The Moray Council specification. A road opening permit must be obtained from the Roads Authority before carrying out this work.

**Reason:** To ensure acceptable infrastructure at the development access.

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

8. Two car parking spaces shall be provided within each site prior to the occupation or completion of the dwelling house, whichever is the sooner. The parking spaces shall 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 residents/visitors/others in the interests of an acceptable development and road safety.

## **8. PLANNING APPLICATION 19/00320/PPP**

### **WARD 8: FORRES**

**Erect 38 dwelling houses, 3 craft/commercial units and a community facility on land to the North and West of East and West Whins, Findhorn, Moray for Duneland Limited**

A report by the Appointed Officer recommending that, for reasons detailed in the report, planning permission in principle be granted for an application to erect 38 dwelling houses, 3 craft/commercial units and a community facility on land to the North and West of East and West Whins, Findhorn, Moray for Duneland Limited.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application is a major development as defined under the hierarchy regulations 2008, as the application site exceeds 2ha. The report also advised that Members of the Committee visited the site of the application on 16 August 2019.

During his introduction, Mr MacPherson, Principal Planning Officer advised that 10 late representations had been received in respect of the planning application. Eight of the 10 late representations had been circulated to the Committee as per the agreed procedure for late representations. The other 2 had not been accepted as they had been submitted by people who had not made a representation on the original application. Mr MacPherson further stated that many of the points in the late

representations were re-emphasising points that had originally been made however there had also been some criticism of the Officer's recommendation and responses received from statutory consultees. He advised that this is not the purpose of the late representation procedure and, as this is new information, the Committee are advised to disregard these comments. This was noted.

Councillor Feaver, in noting that the application is a planning application in principle, queried whether the full detailed planning application would be brought before the Committee for determination or whether it would be dealt with under delegated powers by the Appointed Officer.

In response, Mr MacPherson advised that, under the current scheme of delegation, the detailed planning application could be dealt with under delegated powers.

During discussion surrounding the Environmental Impact Assessment, Councillor Feaver raised concern that the development would be detrimental to the conservation status of species and wildlife habitats and moved that the planning application be refused as it did not comply with policies E3 (Protected Species) and E7 (Areas of Great Landscape Value and impacts upon the wider landscape) of the Moray Local Development Plan 2015 in terms of protecting species and areas of great landscape value. This was seconded by Councillor Macrae.

Councillor Alexander, whilst acknowledging that there would be potential disruption for a small number of bird species, recognised the need for housing development in Moray however was concerned that the detailed planning application would be considered under delegated powers.

In response, the Development Management and Building Standards Manager advised that, if the Committee was minded to approve the application, an informative could be added stating that the detailed planning application be considered by the Committee.

After considering the advice from the Development Management and Building Standards Manager, Councillor Alexander moved as an amendment that the Committee grant planning permission in principle in respect of planning application 19/00320/PPP, as recommended, with an informative that the detailed planning application be considered by the Committee and not dealt with under delegated powers. This was seconded by Councillor Laing.

On a division there voted:

For the motion (3): Councillors Feaver, Macrae and R McLean.

For the amendment (7): Councillors Alexander, Laing, Bremner, Cowie, Coy, A McLean and Taylor

Abstentions (0): Nil

Accordingly, the amendment became the finding of the Committee and it was agreed to grant planning permission in principal, as recommended, in respect of planning application 18/00320/PPP subject to:

- (i) an informative being added advising that the detailed planning application be considered by the Committee and not dealt with under delegated powers;
- (ii) the completion of a (Section 75) legal agreement required prior to issue of any consent regarding developer contributions; and
- (iii) the following conditions and reasons.

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and green infrastructure of the site shall be obtained from the Council, as Planning Authority.

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

2. The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 3-8 below.

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

3. The proposed comprehensive layout of the whole site shall be submitted in accordance with condition no. 2; above. The layout plan shall show details of the following:

- a) the exact position of the site boundaries and individual plots;
- b) the means of access;
- c) details of pedestrian access to and through the site;
- d) areas for vehicle and cycle parking;
- e) communal landscaping and green infrastructure including a timescale for the works and a schedule of maintenance which shall be in accordance with the approved Masterplan and NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019;
- f) Proposals for at least 15% open space;
- g) all proposed earthworks and slope stabilisation measures and
- h) the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent). For the avoidance of doubt all surface water proposals shall be in accordance with the Surface Water Management Plan dated March 2019 and North Whins, Findhorn SuDS Operation & Maintenance Schedule dated March 2019.

For the avoidance of doubt all submitted details shall be in accordance with the approved Masterplan

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



4. The proposed layout of the each plot or development area showing the exact position of the site boundaries, the positions of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 2; above.

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

5. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 2 above.

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

6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 2 above.

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

7. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 2 above.

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

8. Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 2 above. All proposals must comply with the approved Masterplan NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019.

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

9. That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, the layout, design and landscaping of the development hereby approved shall satisfy the following requirements:-

- a) All development shall be in accordance with the design principles set out in the approved Masterplan.
- b) All buildings shall be single or 1 and a half storeys in design.

**Reason:** To ensure an acceptable form of development which relates satisfactorily to surrounding housing in terms of scale, design and character, and protects the amenity of neighbouring residents.

10. That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, where 10 or more units are proposed or the

application would be the 10th unit, the arrangements for the delivery of 10 affordable housing units (25% of the total number of proposed units on the whole site) shall be agreed in writing with the Council as Planning Authority, in consultation with the Head of Housing and Property. Thereafter, no more than 18 units shall be completed on site until at least 5 affordable housing units have been provided in accordance with the agreed arrangements and all the affordable units shall be provided prior to the completion of the 36th unit on site.

**Reason:** To ensure an acceptable form of development which provides for affordable housing on the site.

11. That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, where 10 or more private housing units are proposed or the application would be the 10th such unit, evidence must be provided that at least 3 units (10% of non-affordable units) shall be designed and built to wheelchair accessible spaces standards (as defined in the Moray Council 'Accessible Housing' Supplementary Guidance). For the avoidance of doubt at least 50% of the wheelchair accessible units must be delivered as a single storey dwelling with no accommodation in the upper roof space, i.e. a bungalow. Any application for more than 10 private housing units or the 10th such unit on the overall site shall include an Accessible Housing Compliance Statement with sufficiently detailed plans to demonstrate that these requirements have been met. Thereafter, no more than 15 private housing units shall be completed on site until the accessible units have been provided in accordance with the agreed arrangements. Thereafter the internal layout of these units shall remain as built and approved in perpetuity unless otherwise agreed with the Council.

**Reason:** To ensure an acceptable form of development which provides accessible housing on the site.

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

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

13. No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Council as Planning Authority in consultation with Scottish Environment Protection Agency (SEPA) and other agencies where appropriate. The CEMP shall address all pollution prevention and environmental management issues related to the development and include the following:

- a) identify all risks and incorporate all detailed pollution prevention measures, site management and mitigation measures for all elements potentially capable of giving rise to pollution during all phases of the development;
- b) consider and identify measures which shall include (but not be limited to) matters identified within SEPA's consultation response, dated 8 April 2019 i.e. stock pile storage, ground striping and timing of works, concrete wash out areas, wheel wash stations, welfare facilities, emergency contact details, incident response procedures, waste management and full details on construction stage SUDS;
- c) the location and design of all temporary site construction SUDs arrangements to protect the water environment including measures to mitigate and guard against run-off from the site including run-off containing soil or sediment or other contaminants;
- d) on-site fuel and chemical storage arrangements;
- e) timing of works, to include arrangements for heavy construction works to avoid periods of high rainfall;
- f) waste, to identify all waste streams and construction practices to minimise use of raw materials and maximise use of secondary aggregates and recycled or renewable materials; reduction, re-use and recycling where appropriate of waste material generated by the proposal and identify whether materials will likely be imported on or off the site;
- g) environmental management to identify mechanisms to control and make all construction staff aware of environmental issues including details of emergency procedures, pollution response plans and provision of spillage kits; and
- h) Where peat deposits re encountered, proposals for appropriate management and re-use/disposal of peat.

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

**Reason:** In order to minimise the impacts of the development works upon the environment.

14. No development shall commence until the following details have been submitted and approved in writing by the Planning Authority in consultation with the Roads Authority for:

- a) the widening and improvement of the existing footway on the east side of the B9011 from the existing main access to the development and the Findhorn Foundation northwards to the existing crossing refuge on the B9011; and
- b) increasing the depth and width of the existing B9011 refuge island to the north of Findhorn Foundation/B9011 access to 3 metres by 3 metres.

Thereafter these approved works shall be completed in full in accordance with approved plans prior to the completion of the 5<sup>th</sup> residential unit on site.

**Reason** – In the interests of pedestrian and cycle connectivity to the proposed development, road safety and the provision of information currently lacking from the submission.

15. No development shall commence until a site-specific Construction Traffic Management Plan (CTMP) for the whole site has been submitted to and approved by the Council as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- a) construction access routes
  - b) traffic management
  - c) construction hours / delivery restriction times
  - d) program and duration
  - e) measures to be put in place to safeguard the movements of pedestrians;

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.

16. Notwithstanding the details submitted for parking (North Whins Layout: General Layout Drawing DL 2018 16 S). Unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority, parking provision for the overall development shall be provided in accordance with the following parking standards:
- a) Up to 2 beds = 0.8 spaces per dwelling
  - b) 3 beds = 1.5 spaces per dwelling
  - c) 4 beds = 2 spaces per dwelling
  - d) Each Cluster housing plot (Rates as above then + 0.5 spaces per additional bedroom over 4 beds)
  - e) Commercial Craft Units = 1.5 spaces each.

Thereafter, no residence or craft unit shall be occupied or completed (whichever is sooner) until the parking provision has been provided to accommodate the cumulative development at the time of occupation. Parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with the development hereby approved.

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

17. All mitigation and enhancement measures set out in appendix 9 of NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019 shall be implemented in full and in accordance with the timescales set out in the approved document.

**Reason:** To minimise disturbance to nature conservation interests within the application site and ensure the protection of protected species and habitats.

18. All drainage proposals shall be in accordance with the submitted Surface Water Management Plan dated March 2019 and North Whins, Findhorn SuDS Operation & Maintenance Schedule dated March 2019. Notwithstanding the approved details trash screens must be added at inlet/outlet headwalls.

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

19. All commercial units shall be used only for Class 4 (business) or Class 6 (storage and distribution) uses as defined by The Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) with or without revocation and no other use or purpose.

**Reason:** In order to safeguard the privacy and amenity of occupants of the adjacent properties and to ensure that the planning authority retains effective control of the site.

20. 'Plot 15' as identified in the approved Masterplan NORTH WHINS, FINDHORN ECOLOGICAL IMPACT ASSESSMENT dated 6 March 2019 shall be used for community purposes only. For the avoidance of doubt this shall not include any domestic or commercial use.

**Reason:** In order to clarify the terms of the permission hereby granted and because no such information was included in the application

## **9. PLANNING APPLICATION 19/00043/APP**

### **WARD 8: FORRES**

**Erect 8no dwelling houses and district heating and laundry building with 2no air source heat pumps, parking and landscaping on Site of Old Access Road, The Park, Findhorn, Moray for New Findhorn Directions Limited.**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application to Erect 8no dwelling houses and district heating and laundry building with 2no air source heat pumps, parking and landscaping on Site of Old Access Road, The Park, Findhorn, Moray for New Findhorn Directions Limited.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation, as it is a proposal for 5-49 units that is not in accordance with the Development Plan and therefore falls out with the scope of the Council's Scheme of Delegation. The report also advised that Members of the Committee visited the site of the application on 16 August 2019.

Councillor Feaver raised concern that the proposed development is for a 2 storey block of 8 flats on land that is currently designated for residential caravans and whilst she accepted the need for affordable housing, was of the view that it should take place in land designated for housing. Councillor Feaver raised further concern that the development would result in the loss of 10 moderate quality trees and whilst she acknowledged the proposed compensatory planting, was of the view that the biodiversity of the mature trees outweighs that of any small sapling. Councillor Feaver further noted that the Ecological Survey had been carried out in December and was concerned that a survey conducted at that time of year would not provide a true picture of ecological activity. Taking the above points into consideration, Councillor Feaver moved that the Committee refuse planning permission in respect of planning application 19/00043/APP as it is a departure from the Moray Local Development Plan (MLDP) 2015 and does not comply with the Findhorn Residential

Caravan designation and policies PP3 (placemaking), IMP1 (developer requirements), E4 (trees and development), E3 (protected species), T2 (provision of access), T5 (parking standards) and policy EP14 (pollution, contamination and hazards) in the proposed MLDP 2020 and asked that the developer submits another application appropriate to the current designation of the land. This was seconded by Councillor R McLean.

Councillor A McLean was of the opinion that the proposed development is an acceptable departure from the MLDP 2015 and that the benefits of living in a house far outweigh that of living in a residential caravan and moved as an amendment that the Committee grant planning permission in respect of planning application 19/00043/APP, as recommended by the Appointed Officer. This was seconded by Councillor Coy.

On a division there voted:

For the motion (3): Councillors Feaver, R McLean and Macrae

For the amendment (7): Councillors A McLean, Coy, Alexander, Bremner, Cowie, Laing and Taylor

Abstentions (0): Nil

Accordingly, the amendment became the finding of the Committee and it was agreed to grant planning permission in respect of planning application 17/00043/APP, as recommended, subject to:

- (i) The completion of a legal agreement prior to issue of any consent in order to incorporate developer obligations towards Primary Education (extension at Kinloss Primary School); Healthcare (extension at Forres Health Centre, two additional dental chairs and reconfiguration of existing pharmacy outlets); and Sports and Recreation (3G pitch at Forres);
- (ii) The completion of a legal agreement to agree delivery arrangements of the affordable housing units and to ensure rents charged remain affordable; and
- (iii) the following conditions and reasons:
  - 1. No development shall commence until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the site have been submitted to, and accepted in writing by, the Council as Planning Authority. The strategy shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:
    - i) an appropriate level of characterisation of the type, nature and extent of contamination on the site and accompanying risk assessment as described in Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
    - ii) how any identified contamination will be dealt with during construction works;

- iii) details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
- iv) a means of verifying the condition of the site on completion of the remedial measures.

Thereafter, no development shall commence (other than those works required to investigate and remediate contamination on the site) until written confirmation has been issued by the Council as Planning Authority that the works have been implemented and completed in accordance with the agreed details.

**Reason -** To ensure that the site is suitable for the proposed use, and that risks to the wider environment and to users of neighbouring land from on-site contamination are appropriately assessed and managed.

2. Parking provision shall be the following:

- 6no car parking spaces
- 1no disabled space

The car parking spaces shall be provided within the site prior to first occupation of the first unit. The car parking spaces shall 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 residents/visitors/others in the interests of an acceptable development and road safety.

3. Notwithstanding the submitted details a visibility splay of 4.5m x 95m shall be provided and maintained thereafter in both directions onto the Public Road at the main access into The Park clear of any obstruction above 0.6m in height (measured from the level of the carriageway).

**Reason -** To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

4. Prior to any works commencing the tree protection measures, as identified in the Tree Protection Plan and Arboricultural Impact Assessment/Method Statement. Rev C hereby approved, shall be put in place and maintained until construction work of the development has been completed, unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason -** In order that the tree protection measures are provided to protect existing trees on site during construction work.

5. Notwithstanding the submitted details, the planting of 37 fruit trees adjacent to the B9011 (as identified on drawing number A106-REV G hereby approved) shall be set back at least 1.0m from the rear of the existing cycle path alongside the B9011; and thereafter the planting shall be maintained at all times no closer than 0.5m from the edge of the cycle path. All planting identified (excluding that specified above) in the approved site plan shall be undertaken in the first

planting season after completion or occupation of the development, whichever is the soonest.

**Reason:** To prevent any obstruction of the cycle path and to maintain forward visibility. In the interests of road safety and to ensure timeous delivery of the landscaping.

6. In relation to the approved landscape scheme, any trees shrubs and hedge plantings which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and spacing unless the Council, as Planning Authority gives written consent to any variation of this condition.

**Reason** - In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development of the amenity, appearance, character and quality of the development and the surrounding area.

7. In relation to the approved landscape scheme, all trees identified for retention shall not be removed unless otherwise agreed in writing with the Council, as Planning Authority. Any trees that die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar species in the same position unless the Council, as Planning Authority gives written consent to any variation of this condition.

**Reason** - In order to ensure that the trees are retained and to ensure there is no adverse impact on the amenity, appearance, character and quality of the development and the surrounding area.

8. The approved surface water drainage scheme shall be installed in accordance with the approved details and provided for use prior to the first occupation or completion of the development (whichever is the soonest). Thereafter, the surface water drainage shall be retained for use unless the Council, as Planning Authority gives written consent to any variation of this condition.

**Reason** - In order that the approved surface water drainage arrangements are provided in full, in accordance with the approved details.

9. The mitigation as required under section 4 of the approved habitat survey (Arizona, The Park Findhorn, Moray – Extended Phase 1 Survey by Sea A Reed, BSc MCIEEM, Reed Ecology dated 20 December 2018) and section 5 of the approved bat survey (19/052/GLD/R01 Technical Report by James Bunyan, Track Ecology, v1.1 August 12, 2019) shall be undertaken in accordance with the approved details, unless the Council, as Planning Authority gives written consent to any variation.

**Reason** - In order that the development is carried out in accordance with the approved mitigation measures as detailed in the habitat and bat survey.

## **10. PLANNING APPLICATION 19/00550/APP**

### **WARD 6: ELGIN CITY NORTH**



## **Erection of 6 apartments at Linkwood Steading, Linkwood Road, Elgin, Moray for Springfield Properties PLC**

Councillor Macrae left the meeting at this juncture.

Councillor Laing, having declared an interest in this item, left the meeting at this juncture and took no part in the debate.

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for the erection of 6 apartments at Linkwood Steading, Linkwood Road, Elgin, Moray for Springfield Properties PLC.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation, as it is a proposal on a site designated for 50 or more houses in the Development Plan, therefore it falls out with the scope of the Council's Scheme of Delegation. The report also advised that Members of the Committee visited the site of the application on 16 August 2019.

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee of an amendment in the report in relation to the proposal to erect "6 two bedroom flats over two storeys, previously approved as 3 houses built behind the retained steading façade", which should in fact read "behind a reinstated steading façade". This was noted.

During discussion surrounding the demolition of the steading, concern was raised that the façade had been demolished due to deterioration over time as, when the original application was approved in 2016, the Committee had been quite specific that the original steading be retained. It was further queried when the Planning Service had been notified of this deterioration as some members of the Committee had no knowledge that a further application had been received to demolish the existing steading.

In response, Mr MacPherson advised that an application had been received in 2018 to demolish the existing steading which had deteriorated over time and that this had been approved under delegated powers subject to conditions, specifically to retain the façade and a number of features within the principal elevation along with the reuse of stone and slate from the steading in the new development. In June 2019 a report from a local stone mason had revealed that a lot of the stone was not salvageable therefore the current application had been received asking to rebuild the façade using as much as the original stone as possible, supplemented by similar material finishes which should be approved by the Planning Authority.

The Development Management and Building Standards Manager further suggested that, should the Committee be minded to approve the planning application, condition 2 which stipulates that a scheme of material finishes for the external walls should be submitted to and approved in writing with the Planning Authority, could be brought to the Committee for approval.

On hearing the advice from the Development Management and Building Standards Manager, Councillor Taylor moved that the Committee grant planning permission in respect of planning application 19/00550/APP, as recommended, subject to the

material finishes detailed in condition 2 being considered by the Committee and not dealt with under delegated powers. This was seconded by Councillor A McLean.

Councillor Feaver was of the view that the developer should rebuild the façade as per the decision notice issued by the Planning Authority on 19 February 2019 as there is adequate sandstone available from the nearby quarry and moved that the Committee refuse the planning application as it does not comply with policy PP3 in terms of placemaking in the Moray Local Development Plan 2015. This was seconded by Councillor R McLean.

On a division there voted:

For the motion (5): Councillors Taylor, A McLean, Alexander, Bremner and Coy

For the Amendment (2): Councillors Feaver and R McLean

Abstention (1): Councillor Cowie

Accordingly the motion became the finding of the Committee and it was agreed to grant planning permission in respect of planning application 19/00550/APP, as recommended, subject to:

- (i) the material finishes detailed in condition 2 being considered by the Committee and not dealt with under delegated powers;
  - (ii) contribution towards or modification of legal agreement prior to issue of any consent in order to incorporate developer obligations towards Primary Education (new Linkwood Primary School) and healthcare (five additional dental chairs and a new pharmacy outlet); and
  - (iii) the following conditions and reasons.
1. Notwithstanding the details shown on drawing number EL43\_STDNG\_PL01 Rev A hereby approved, the roof shall be finished in slate reclaimed from the steading that previously stood on site or a new natural slate to be agreed with the Council, as Planning Authority, prior to any development commencing.  
  
**Reason:** In the interests of the character of the development and surrounding area.
  2. Notwithstanding the details shown on drawing number EL43\_STDNG\_PL01 Rev A hereby approved, prior to any development commencing, a scheme of material finishes for the external walls shall be submitted to and approved in writing with the Council, as Planning Authority. This scheme must show the walls of the front south west facing elevation finished in stone reclaimed from the steading that previously stood on site and if necessary, new natural stone work incorporated, along with an appropriate arch feature to the ground floor window of the central gable. Thereafter the development shall be implemented in accordance with the approved details.  
  
**Reason:** In the interests of the character of the development and surrounding area.

3. The clock face, bell feature, date stone and weather vane as shown in drawing number EL43\_STDNG\_PL01 Rev A hereby approved shall be installed prior to the first occupation of the building.

**Reason:** In order to ensure the features of interest are provided as part of the consented development.

4. Prior to any development commencing, a detailed landscaping scheme shall be submitted to and approved in writing by the Council, as Planning Authority. The landscaping scheme shall show the provision of planting within the site as indicated in drawing number EL43\_STDNG\_SP\_01Rev B, along with hedgerows around the flats (as also indicated in said drawing). Thereafter, the planting shall take place in the first planting season following completion of the development.

**Reason:** In the interests of the amenity, appearance, character and quality of the development and the surrounding area.

5. In relation to the approved landscape scheme, any trees shrubs and hedge plantings which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and spacing unless the Council, as Planning Authority gives written consent to any variation of this condition.

**Reason -** In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development of the amenity, appearance, character and quality of the development and the surrounding area.

6. Parking provision shall be as follows:

- 10 Car parking spaces
- 4 cycle parking spaces

The parking spaces shall be provided within the site prior to the first occupation. The parking spaces shall 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 residents/visitors/others in the interests of an acceptable development and road safety.

7. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

8. The development hereby approved must also comply with the requirements of;-
  - a. The Sustainable Urban Drainage System and construction phase surface

- water management plan as approved under condition 10 of planning approval reference number 15/02032/APP.
- b. The Construction Environmental Management Plan (CEMP)\_as approved under condition 12 of planning approval reference number 15/02032/APP.
  - c. The Ground Investigation Report (Revision B) regarding any necessary contaminated land remediation works as addressed under condition 13 of planning approval reference number 15/02032/APP.

**Reason:** To ensure an acceptable form of development and to ensure compliance with those conditions of the overall planning permission for the Linkwood Steading designation that remain relevant to the current proposal.

Councillor Laing re-joined the meeting at this juncture.

**11. PROPOSAL OF APPLICATION NOTICE - 19/00686/PAN - PHASED RE-MODEL AND RE-BUILD OF EXISTING DISTILLERY INCLUDING NEW EVAPORATOR BIO-PLANT BOILER HOUSE, STILL HOUSE, TUN ROOM AND MASH HOUSE, NEW VISITORS PARKING/ACCESS AND ASSOCIATED LANDSCAPING AT ABERLOUR DISTILLERY**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 5 June 2019 on behalf of Chivas Brothers Ltd, Aberlour Distillery, Aberlour.

During discussion surrounding the proposed development, concern was raised that the proposal encompassed an existing core path, associated parking and access to Aberlour Primary School and it was asked that the applicant be mindful of the parking associated with the current core path within and beyond the site.

The Committee also asked that the applicant be mindful of noise issues, proximity to housing, the nearby ancient woodland and any potential flooding issues.

In response, Mr MacPherson, Principal Planning Officer agreed to feed these concerns back to the applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and that the following provisional views/relevant issues about the proposed development be fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission:
  - a) parking associated with the current core path within and beyond the site;
  - b) noise issues;
  - c) proximity to housing;
  - d) ancient woodland;
  - e) flooding; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

## **12. PROPOSAL OF APPLICATION NOTICE - 19/00783/PAN - PROPOSAL OF APPLICATION NOTICE FOR HOUSING DEVELOPMENT OF 75 UNITS AND NURSING/RETIREMENT HOME AT R1 AND LONG SITE, HOPEMAN, MORAY**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been submitted on 21 June 2018 on behalf of Tulloch of Cummingston Limited, Tulloch House, Forsyth Street, Hopeman.

The proposal was welcomed by the Committee however concern was raised that there were more houses proposed than originally identified for the site and it was asked that the Applicant be made aware of the Committee's concern in this regard.

In response, Mr Smith, Principal Planning Officer agreed to pass on to the Applicant the Committee's concern in relation to the proposed number of houses to be built which is more than what was originally identified.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and that the following provisional views/relevant issues about the proposed development be fed back to the prospective applicant in order to inform the proposed planning application:
  - a) concern in relation to the proposed number of houses to be built which is more than what was originally identified.
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

## **13. QUESTION TIME**

Councillor Feaver sought clarification in relation to the criteria used to determine why some amendments to original planning decisions come back to committee for a decision and others are left to delegated officers and the chair.

In response, the Development Management and Building Standards Manager advised that significant amendments would usually be brought back to the Committee and that determining whether an amendment was significant was a matter of judgement based on resources, committee time and staff time.

Councillor Alexander sought clarification as to whether there was a policy to remove barriers at roundabouts if damaged as they were found to be ineffective.

In response, the Head of Development Services advised that he did not have that information and would arrange for it to be issued to Councillor Alexander following the meeting.

Councillor Alexander further queried whether the proposed traffic lights at the junction at Orchard Road and Saint Catherine Road in Forres had not been

completed due to a reduction in developer obligations as the size of the proposed retail unit had reduced and asked how the Developer had received permission to reduce the size of the unit.

In response the Head of Development Services advised that the amount of developer obligations is based on an assessment of traffic generated by the development and that if the development is reduced this reduces the traffic flow which in turn reduces the amount of money that can be used for traffic lights.

The Development Management and Building Standards Manager further advised that she was not aware that the size of the proposed retail unit had been reduced and would look into this further and provide a response to Councillor Alexander following the meeting.

#### **14. BREACH OF PLANNING CONTROL ON LAND IN ELGIN [PARA 13]**

A report by the Corporate Director (Economic Development, Planning and Infrastructure) sought the Committee's authority to serve an Enforcement Notice requiring the compliance with planning conditions and removal of unauthorised development on land in Elgin.

During discussion, it was noted that signs had been erected on the building and it was queried whether consent had been requested and given for these signs.

In response, Mr MacPherson, Principal Planning Officer advised that it may be that the signage is permitted under advertisement regulations however if it is not then retrospective advertisement consent would be pursued.

The Development Management and Building Standards Manager further added that, if the Committee was minded, this could be brought to this Committee for consideration. This was agreed.

Thereafter, the Committee agreed:

- (i) to serve a Breach of Condition Enforcement Notice requiring the owner of the site to comply with the terms of the Notice by complying with planning condition 2 on the consented planning application;
- (ii) to serve an Enforcement Notice requiring the owner of the site to comply with the terms of the Notice by removing the unauthorised development; and
- (iii) that any retrospective consent received in connection to signage on the existing development be considered by this Committee.



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**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE  
MEETING OF 8 OCTOBER 2019**

**REPORT ON APPLICATION**

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***“Note for guidance of the Committee where the decision of the Planning and Regulatory Services Committee is contrary to the recommendations of the Director of Environmental Services in respect to a Planning Application.”***

*Any Councillor putting forward a motion to refuse an application, contrary to recommendation, shall clearly state the reasons for refusal. These reasons should be based on policies contained in the approved Local Development Plan or some other material consideration. Time should be allowed to ensure that these reasons are carefully noted for minuting purposes.*

*Where Councillors put forward a motion to approve an application, contrary to recommendation, an indication should be given of any specific matters which should be subject of conditions along with reasons which should be based on policies in the approved Local Development Plan or some other appropriate consideration.*

***Note for guidance where the decision of the Planning and Regulatory Services Committee is to depart from the Local or Structure Plan.***

*Where a Councillor is convinced that there is reason to depart from Local Development Plan policy; then the Councillor's reasons for making the motion should be clearly stated for minuting purposes. Any matters which should be subject to conditions drafted subsequently by the Director of Environmental Services should be indicated. If the Committee remains of a mind to approve such an application then the whole matter will be subject to statutory procedures as apply. In such cases, Councillors should be aware that the application may require to be advertised as a departure and any objections reported to the next available meeting of the Planning and Regulatory Services Committee. It also may be necessary to convene a hearing to consider the views of objectors.*

*There are three potential consequences if Committee takes a decision where the proper procedures have not been followed in whole or in part. Firstly, the person aggrieved by a decision may apply to the Supreme Courts in Scotland for an Order either compelling the Council to act according to law, quashing the decision altogether or declaring a decision to be unlawful coupled with an order to prevent the decision being implemented. A referral to the Supreme Courts in these circumstances is known as applying for Judicial Review.*

*Secondly, in addition to the application for Judicial Review when questions of alleged failure, negligence or misconduct by individuals or local authorities in the management of public funds arise and are raised either by or with the External Auditor of the Council and where an individual can be blamed the sanctions available are:-*

*Censure of a Councillor or an Officer*

*Suspension of a Councillor for up to one year*

*Disqualification of a Councillor for up to five years*

*In the case of the Council being to blame, recommendations may be made to the Scottish Ministers about rectification of the authorities accounts. Ministers can make an order giving effect to these recommendations.*

*Thirdly, whilst the Ombudsman accepts that Planning authorities have the freedom to determine planning applications as they wish procedural impropriety may be interpreted as maladministration. This can also lead to recommendations by the Ombudsman that compensation be paid.*

*Consistent implementation of departure procedures maintains public confidence in the planning system and is consistent with the time and effort invested in preparing the Local Development Plan.*





WARD 01\_17

**19/00211/APP**  
**28th March 2019**

**Change of use of farm sheds to whisky cask warehouses  
 at Viewfield Farm Craigellachie Aberlour Moray  
 for Forsyths Ltd**

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**Comments:**

- A SITE VISIT has been carried out.
- The application is for a site with an area of 2 or more hectares.
- Advertised for neighbour notification purposes – notification not possible because no premises are situated on land to which notification can be sent.
- No representations have been received.

**Procedure:**

- None

**Recommendation**

- **Grant Planning Permission - Subject To The Following conditions:**

**Conditions/Reasons**

1. For the avoidance of doubt, this consent relates to buildings 1, 2 and 3 only per drawing number P01 B hereby approved. All other buildings within the site do not form part of this consent and shall not be used for storage (including any land within the curtilage of the site) without the prior approval of the Council, as Planning Authority.

**Reason** – To ensure the buildings within the site are operated in line with the details that were assessed as part of this application.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting that order) the approval hereby granted only relates to the use of the three buildings as Whisky Cask Storage and for no other use or purpose without the prior approval of the Council, as Planning Authority.

**Reason** - In order to retain Local Authority control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any order revoking and re-enacting that order) no development specified in Article 3, Schedule 1, Part 3, Class 13 shall be carried out without the approval of the Council, as Planning Authority.

**Reason** - In order to retain control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

4. Unless otherwise agreed in writing with the Council, as Planning Authority, in consultation with the Environmental Health Manager, deliveries and activities associated with the proposed storage use (as outlined in the Revised Noise Impact Assessment, dated 26 June 2019) shall only be permitted between the hours of 0800 - 1630 Monday to Thursday and 0800 - 1230 on a Friday.

**Reason** – In order that activity associated with the use is undertaken during reasonable working hours, in the interests of the amenity of the surrounding area.

5. The rating level of noise associated with the use hereby granted shall not exceed the background sound level by more than 5 dB(A) at the nearest noise sensitive dwelling.

Any measurement and assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

**Reason** – In order that any noise emissions from the activity hereby granted shall be within acceptable levels.

6. The operations on site shall be carried out in accordance with the method statement/phasing information dated 30 August 2019 from Ken Mathieson Architects hereby approved.

**Reason** – In order to ensure the development is carried out in accordance with the approved phasing and method details, in the interests of the amenity of neighbouring properties.

7. No development shall commence until a detailed drawing (scale 1:500 at A3) showing the location and design of three passing places on the U58H between the A95 and the site entrance (to the Moray Council's standards and specifications), has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority; and thereafter the passing places shall be constructed in accordance with the approved drawing prior to the use/any development commencing (except for those works associated with the provision of the passing places).

**Reason** – To enable drivers of vehicles to have adequate forward visibility to see approaching traffic and for two vehicles to safely pass each other ensuring the safety and free flow of traffic on the public road.

8. No development shall commence until a detailed drawing (scale 1:500 at A3) showing proposals to strengthen/reinforce the edge of the public road U58H where it meets the unadopted vehicle overrun area, has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority, and thereafter the works shall be constructed in accordance with the approved drawing prior to the use commencing.

**Reason** – To ensure acceptable infrastructure at the development access.

**Reason(s) for Decision**

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

The change of use of the buildings is considered suitable and would not have an adverse impact on the surrounding area. Subject to upgrades to the vehicular access to the site from the A95 trunk road, sufficient infrastructure can be provided to serve the development. The proposal therefore complies 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:-

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

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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. (Passing Places and edge strengthening). 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 at [http://www.moray.gov.uk/moray\\_standard/page\\_65638.html](http://www.moray.gov.uk/moray_standard/page_65638.html)

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](mailto:roadspermits@moray.gov.uk)

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.

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.

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

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

TRANSPORT SCOTLAND has commented that:-

To obtain permission to work within the trunk road boundary, contact the Area Manager through the general contact number below. The Operating Company has responsibility for co-ordination and supervision of works and after permission has been granted it is the developer's contractor's responsibility to liaise with the Operating Company during the construction period to ensure all necessary permissions are obtained.

**Area Manager**

Area Manager (A95)  
Buchanan House  
58 Port Dundas Road  
Glasgow  
G4 0HF

0141 272 7100

**Operating Company**

NORTH EAST  
Bear House  
Inveralmond Roundabout  
Inveralmond Industrial Estate  
Perth  
PH1 3TW

01738 448600  
[NEplanningapplications@bearsotland.co.uk](mailto:NEplanningapplications@bearsotland.co.uk)

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan
P01 B	Site and location plan

Information to accompany decision:

Revised Noise Impact Assessment, dated 26 June 2019.

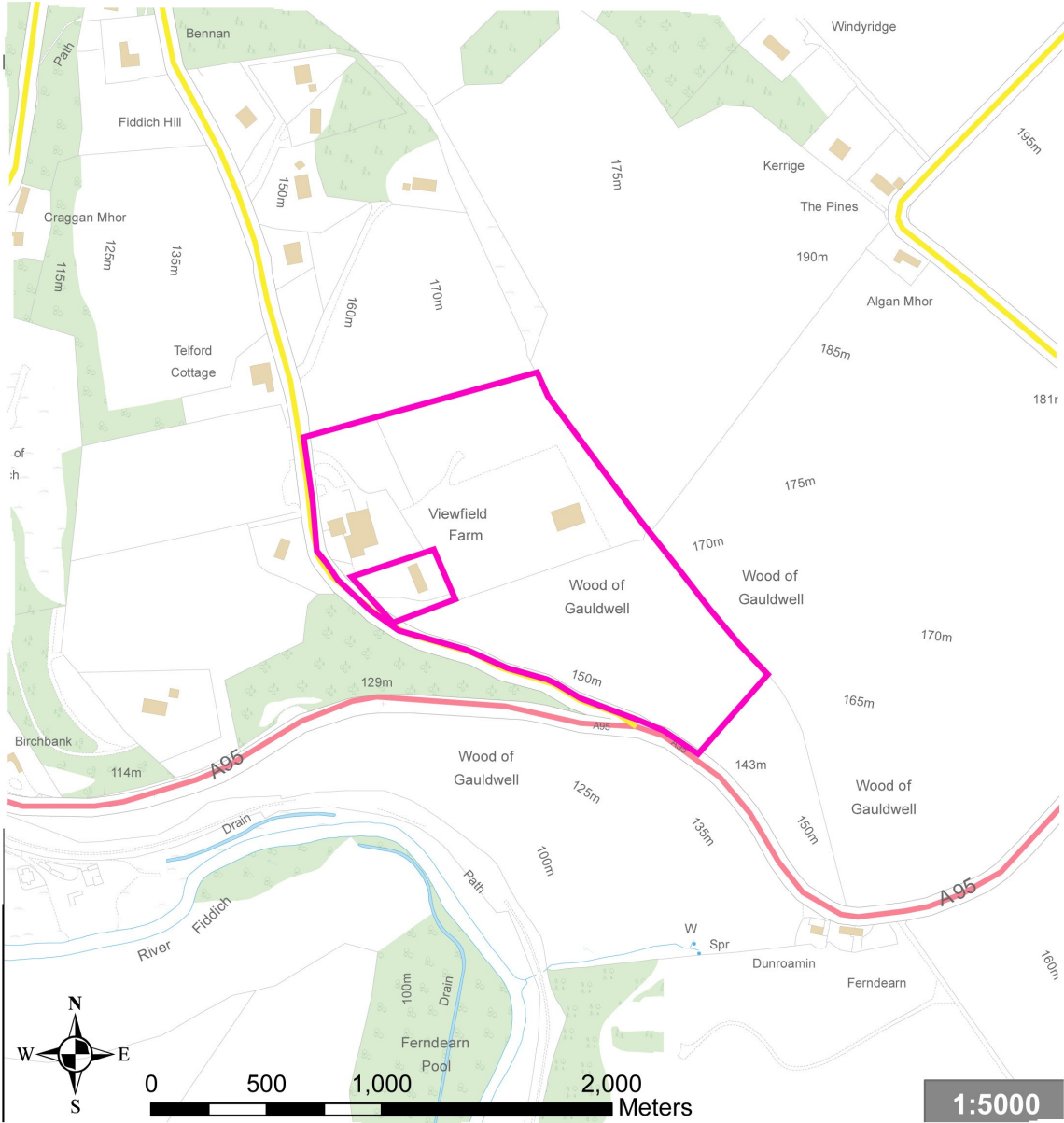
Method Statement/phasing information dated 30 August 2019.



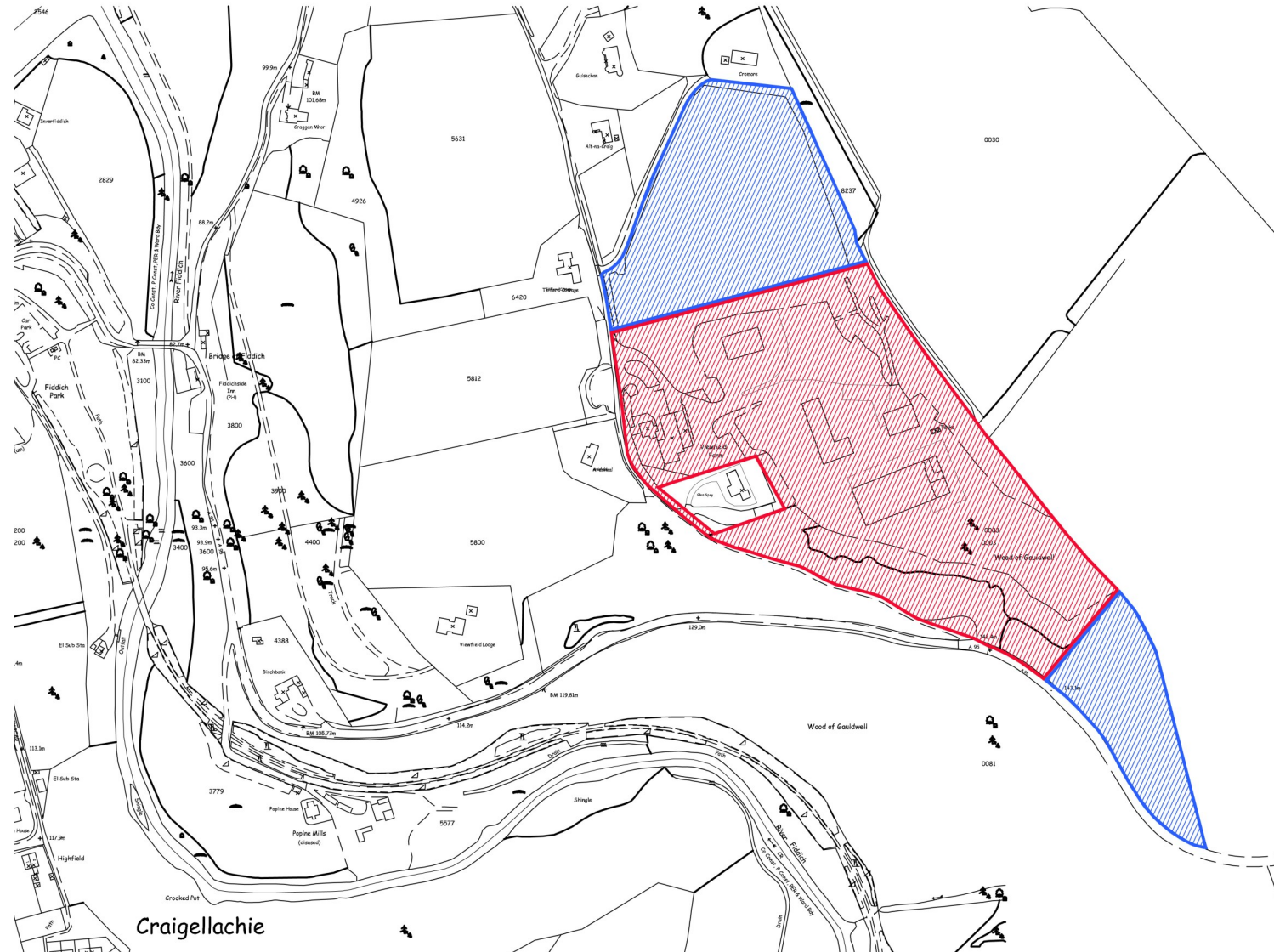


**Applicant Name:**  
Forsyths Ltd

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## Site Location





## Site layout plan



**Building 1**





**Building 2**





## Building 3



## PLANNING APPLICATION: 19/00211/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**

- Change of use of three agricultural buildings as secure storage for whisky casks (Use Class 6).
- All buildings on site are to remain unaltered; this application relates purely to the use of three buildings (numbered 1, 2 and 3 on the site plan submitted with the application). No external storage of casks is proposed.
- Existing access and parking arrangements will be utilised.

### **THE SITE**

- A group of agricultural buildings, with associated hardstanding and planting to the west of Craigellachie.
- The site covers an area of 6.6 ha, surrounded by agricultural land with dispersed housing.
- Dwelling of Glen Spey sits within the red line site as submitted (but is excluded from the site area).
- Mature trees bound the site to the south.

### **HISTORY**

**12/00873/APP** – Erection of grain store and general purpose shed granted permission under delegated powers on 13 July 2012. (Building 3 on the submitted plans.)

**10/00376/APP** – Erect agricultural building granted permission under delegated powers on 15 April 2010. (Building 1 on the submitted plans.)

**09/02257/AGR** – Erection of agricultural building under prior notification accepted under delegated powers on 21 January 2010. (Building 2 on the submitted plans.)

### **POLICY - SEE APPENDIX**

### **ADVERTISEMENTS**

- Advertised for neighbour notification purposes.

## **CONSULTATIONS**

**Transport Scotland** – Following the provision of information on vehicle movements (size of vehicles and numbers), no objections.

**Transportation Manager** – Following the provision of information on vehicle movements (size of vehicles and numbers), no objections subject to conditions in relation to the provision of 2 passing places and reinforcement of the edge of the public road adjacent to the existing unadopted overrun at the junction where Viewfield Road (U58H) meets the A95 trunk road. Informative notes also provided.

**Environmental Health** – Following the provision of a Noise Impact Assessment and phasing plan/method statement, no objections subject to conditions limiting the operating hours of the deliveries and activities associated with the use being carried out between 0800 – 1630 Monday to Thursday and 0800 – 1230 on a Friday, and limitations of noise.

**Contaminated Land** – No objections.

**Building Standards** – Building Warrant required.

## **OBJECTIONS-REPRESENTATIONS**

None received.

## **OBSERVATIONS**

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. 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 Manager and Strategic Planning and Delivery Manager.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019. In this case the proposal is not subject to a designated site.

The main planning issues are considered below.

### **Rural Business (ED7, PP1 and IMP1)**

The site is not covered by any specific land use designation and outwith a defined settlement boundary in the MLDP. Accordingly, the proposal is considered to comprise a rural business proposal, and policy ED7: Rural Business Proposals is applicable. This contains criteria which such proposals must conform to. Policy PP1: Sustainable Economic Growth supports proposals which contribute towards the delivery of sustainable economic growth. Policy IMP1: Developer Requirements requires development to be sensitively sited, design and serviced appropriate to the amenity of the surrounding area.

There will be no physical changes to any of the buildings externally, therefore the main consideration relates to the suitability of the use of the buildings for this purpose and the implications this has on the surrounding area.

With regard to a locational justification, the use of buildings for storage of whisky casks tends to be found in rural locations, in close proximity to distilleries (e.g. bonded warehouses at Malcolmburn, north of Mulben). This site's close proximity to the A95 trunk road that runs through the Speyside area means the site is suitably placed to provide such a service. In addition, the proposal utilises existing buildings, therefore there will be no additional buildings located within the rural context of the site. Furthermore no external storage of casks is proposed.

Sufficient capacity must also be available in local infrastructure or where this is insufficient, be mitigated against. As noted below under Roads Access, sufficient information has been provided to demonstrate the negligible impact the change of use will have on the local road network and conditions have been recommended in relation to access.

A Noise Impact Assessment (NIA) was provided at the request of the Council's Environmental Health Manager, in order that consideration could be given to the impact of the proposed use upon a nearby dwelling (Glen Spey). The proposal is also accompanied by a method statement, which includes phasing information that details one building will be filled with barrels at a time (Building 2, 1 then 3). This found that the impact of the proposed use upon the amenity of neighbouring residents would be low, with noise levels at the property (inside and out) being found to be within World Health Organisation recommended levels. The proposal would not result in an unacceptable disturbance to residential amenity and conditions are recommended in relation to operating hours and noise levels, as well as ensuring the development is carried out in accordance with the submitted method statement, per the recommendation of the Environmental Health Manager.

Overall, the change of use is considered to be suitable for its rural location and would satisfy policies ED7, PP1 and IMP1. A condition is recommended to limit the scope of the operation to that proposed, as any alternative use within use class 6 (storage and distribution) may have a negative impact on the surrounding area and the infrastructure serving it. A further condition is recommended to prevent the change of use of the

building(s) to use classes 4 (business) and 5 (general industrial), which permitted development rights allow.

### **Location in Area of Great Landscape Value (E7)**

The site is located within the Speyside Area of Great Landscape Value (AGLV). Policy E7 seeks to prevent development that results in an adverse impact upon such designated areas. Again, as noted above, the proposal does not involve the erection of new or alterations to existing buildings or external storage, accordingly there will be no impact on the AGLV. Consequently, there is no conflict with policy E7.

### **Roads Access (T2)**

Access to the site is taken from an unclassified road (Viewfield Road), with the existing access arrangements to the site remaining unchanged. This access point is circa 400 metres from Viewfield Road's junction with the A95 trunk road (Craigellachie to Keith).

At present, the agricultural buildings have vehicle movements of 180 in and 180 out over a six month period (in relation to its use as grain storage), equating to 20 vehicles per day. The proposed use would entail 500 inbound deliveries over a 9 month period, equating to 3 deliveries per day, Monday to Thursday and 2 on a Friday. Once the facility is full of casks, vehicle movements would effectively cease, save for infrequent delivery movements thereon and, on a day to day basis, staff vehicles.

Both Transport Scotland and the Transportation Manager raised no objections to the proposal. The Transportation Manager has requested conditions requiring the provision of three new passing places on Viewfield Road (between the access to the site and the A95), as well as the reinforcement and strengthening of the public road where it meets the existing un-adopted overrun area of the junction.

Subject to these conditions, the proposal complies with policy T2.

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

In accordance with policy IMP3 and the associated Developer Obligations Supplementary Guidance, no developer obligations are sought for this change of use.

### **Conclusion**

Approval is recommended subject to conditions.

### **REASON(S) FOR DECISION**

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

The change of use of the buildings is considered acceptable and would not have an adverse impact on the surrounding area. Subject to upgrades to the vehicular access to the site from the A95 trunk road, sufficient infrastructure can be provided to serve the



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

**Author/Contact  
Officer:**

Andrew Miller  
Planning Officer

**Ext:** 01343 563274

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



## **APPENDIX**

### **POLICY**

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

##### **Primary Policy PP1: Sustainable Economic Growth**

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

##### **Policy ED7: Rural Business Proposals**

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

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

##### **Policy E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape**

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

## **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 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.

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

#### **PP3 INFRASTRUCTURE & SERVICES.**

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

- a) **Development proposals will need to provide for the following infrastructure and services:**
- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
  - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
  - iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
  - iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
  - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
  - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
  - vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
  - viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
  - ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
  - x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) **Development proposals will not be supported where they:**

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

c) **Harbours.**

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

d) **Developer Obligations.**

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

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

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

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



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

## **DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

### **(i) Design**

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

## **BUSINESS & INDUSTRY**

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

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

- b) **Business Parks.**

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

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

- c) **Industrial Estates.**

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

- d) **Existing Business Areas.**

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

- e) **Other Uses.**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (sui generis), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) **Areas of Mixed Use.**

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

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

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

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

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

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

h) **Inward Investment Sites.**

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

Proposals must comply with Policy DP1 and other relevant policies.

**EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.**

i) **Special Landscape Areas (SLA's).**

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, avoid adverse effects on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
  - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
  - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
  - iii) For nationally significant infrastructure developments identified in the National Planning Framework.
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
  - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
  - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

Where a proposal is covered by both a SLA and CAT or ENV policy/designation, the SLA policy will take precedence.

## **ii) Landscape Character.**

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

## WARD 04\_17

**19/00517/APP**  
**16th May 2019**

**Partial remix of existing consent (ref: 10/01267/APP) to provide 46 affordable homes on Phase 2 and 3 on R1 Stynie Road Mosstodloch Moray for Moray Council**

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**Comments:**

- A SITE VISIT has been carried out.
- The application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site.
- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- 1 representation received.

**Procedure:**

- Legal agreement required prior to issue of any consent in order to incorporate developer obligations relating to healthcare provision.

**Recommendation      **Grant Planning Permission - Subject To The Following:-****

1. Completion of Legal Agreement; and
2. The following conditions:

**Conditions/Reasons**

1. Prior to the commencement of any works, a full site Construction Environmental Management Plan, including a dedicated pollution prevention section, shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with SEPA; and thereafter all work shall be carried out in accordance with the approved plan.

**Reason** - In order to minimise the impacts of necessary construction works on the environment.

2. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Planning Landscaping Layout drawing number MS01\_PH2-3PL03

E and detail the following:

- (a) hedging to be provided along the northern boundary of the site between the proposed trees;
- (b) details of the landscaping arrangements to integrate the proposed open space area in the southern corner of the site with the adjacent existing open space area leading to Mossmill Park;
- (c) details of the enclosures to be erected around the bin collection points;
- (d) the location of the bin collection points adjacent to Plot 60 amended and set back amongst the shrub planting, off the service verge (along with provision of an associated hardstanding leading onto the public road); and
- (e) the arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken together with the arrangements for the long-term maintenance of all proposed landscaping arrangements.

Thereafter, the landscaping arrangements shall be carried out in accordance with the approved scheme details. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council, as Planning Authority gives written consent to any variation of this planning condition.

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

3. Prior to the commencement of development details of the affordable housing specification shall be submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site.

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

**Reason** - To ensure all of the residential units approved on site are affordable and managed accordingly.

4. Prior to the commencement of development a Construction Phase Surface Water Management Plan shall be submitted to and agreed in writing with the Council, as Planning Authority. The plan shall include measures to prevent increased flood risk to neighbouring properties and measures to ensure heavily silted surface water does not enter the River Spey catchment. Thereafter the development shall be carried out in accordance with the agreed details.

**Reason** - To prevent surface water flooding during the course of the development and minimise risk to the River Spey SAC.



5. Notwithstanding the details submitted on the site layout plan and street lighting plan (Drawing MS01\_PH2- 3\_PL0( c) and MS01-ENG-320) which are not accepted. Prior to commencement of construction a detailed plan (1:500 min) shall be submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority showing the following details:
- a) The full extent of prospectively adoptable roads to be provided as part of the application/Phase 2/3 of the development (including roads and verges currently shown out with the red line boundary in front of plots 18-43).
  - b) The proposed footway connection on the eastern side of plot 16 shall be provided with a raised kerb on its eastern side and a dropped kerb crossing on both sides of the road in front of plot 25.
  - c) Provision of a 2 metre wide footway in front of plots 63 to 72 with dropped kerb road crossing of internal site roads.
  - d) Carriageway widening to accommodate two-way car movement through the road bend fronted by plots 23/24 and 43/44.
  - e) Removal of trees proposed in the verge adjacent/west of plot 64.

**Reason** - To ensure acceptable:-

- a) Provision of information currently lacking from the submission to ensure adequate development infrastructure that does not create any hazard to road users in the interests of road safety.
  - b) Infrastructure for non-motorised road users, ensuring the provision of routes to schools and local facilities and a sustainable development.
  - c) Infrastructure for non-motorised road users, in the interest of road safety.
  - d) Infrastructure for non-motorised road users, in the interest of road safety.
  - e) Provision of adequate development infrastructure and in the interests of road safety.
6. Prior to the commencement of construction the following shall be submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority:
- a) A Construction Traffic Management Plan including details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 min), proposals to safeguard non-motorised road users and control procedures to address the impact of heavy goods vehicles/construction traffic on the U18E Stynie Road which includes the repair of any damage to the public road attributable to the development and the prevention of materials or water being deposited on the public road.
  - b) Details (Plan(s) scale 1:500 min) showing the provision of off-site infrastructure for non-motorised users which comprises the following items including signage and road markings:
    - i) A new 3.0m wide cycleway (approx. 360m in length) along the eastern side of the U18E Stynie Road between the northern site access and the back of the bellmouth on the north side of the junction at Mossmill Park (Point A as shown on sketch 10/01267/MC/01 Rev A submitted with Planning Application Ref 18/01536/APP)),
    - ii) A new 2.0m wide footway (approx 35m in length) along the western side of the U18E Stynie Road between a point opposite the site frontage at the southern site boundary to the back of the bellmouth at the the car park for Speymouth Hall;

- iii) A pedestrian crossing point, including dropped kerbs and tactile paving, on both sides of the U18E Stynie Road at a point to be agreed with the Roads Authority between the site boundary and the footway to Speymouth Hall;
- iv) Widening of the existing footway (Approx 55m in length) along the eastern side of the U18E Stynie Road to provide a continuous 3.0m wide cycleway from the new 3.0m wide cycleway detailed in item i) above (Point A) and Findlay Road (Point B) as shown on sketch 10/01267/MC/01 Rev A submitted with Planning Application Ref 18/01536/APP);
- v) A pedestrian crossing point, including dropped kerbs and tactile paving, on both sides of the U18E Stynie Road at a point to be agreed with the Roads Authority approximately 10 metres to the north of Glebe Road; and
- vi) Provision of cycle route signage to the Moray Council standards and specification from the development to the B9015 (Main Street).
- c) Details (Plan scale 1:1000 min) for the widening of the U18E Stynie Road to 5.5m along the full extent of the site frontage (approx. 250m) onto Stynie Road, to the Moray Council standards and specification, including the extension of street lighting and road drainage.
- d) Details (Plan(s) scale 1:500 min) of a 4.5m x 120m visibility splay in both directions at the access.

Thereafter the off-site infrastructure works (b and c) shall be completed in accordance with the approved details prior to the commencement of the 5th house or flat within the development.

**Reason** - To ensure acceptable:-

- a) Development that does not create any hazard to road users in the interests of road safety.
  - b) Infrastructure for non-motorised road users, ensuring the provision of routes to schools and local facilities and a sustainable development.
  - c) Infrastructure at the development access and to cater for additional traffic generated by the development.
  - d) To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.
7. Parking provision shall be provided and maintained for use in accordance with the approved site layout plan (Drawing No. MS01\_PH2-3 PL01 A) unless otherwise agreed in writing with Moray Council Transportation.

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

8. The visibility splay detailed in Condition 6(d) shall be maintained clear of any obstructions. All boundary fences shall be set back behind the visibility splay which will become part of the adopted public road.

**Reason** - To ensure acceptable access and visibility in the interest of road safety

for the proposed development and other road users.

9. New boundary walls/fences/planting shall be set back from the edge of the prospective public carriageway at a distance of 2.0m. No fences, walls, planting or obstructions in or along the front/rear of service verges.

**Reason** - To ensure acceptable development in the interests of road safety.

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

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

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

**Reason** - To ensure acceptable development in the interests of road safety.

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

**Reason** - To ensure acceptable infrastructure at the individual development accesses.

13. Unless otherwise agreed in writing with the Council, as Planning Authority, the equipped play area and surrounding area of open space approved under planning application 18/01536/APP (phase 1) shall be provided in accordance with the approved plans prior to the commencement of the 20th residential unit in any phase of the development covering the whole R1 designation. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan MS01\_SL\_PL-05 for the lifetime of the development.

**Reason** - To ensure the timeous provision of the play area and surrounding open space.

14. All surface water drainage infrastructure within the development shall be implemented in accordance with the details contained in the approved "Drainage Strategy Report" and associated drainage drawings MS01\_ENG-635, MS01-ENG-206, MS01-ENG-625, MS01-ENG-205, MS01-ENG-630, MS01-ENG-207 and MS01-ENG-640. Unless otherwise agreed in writing with the Council, as Planning Authority, this drainage infrastructure will be completed prior to the first occupation of any housing unit in the development and thereafter maintained for the lifetime

of the development in accordance with the approved 'Drainage Strategy Report'.

**Reason** - To ensure an acceptable form of development is provided in accordance with intentions stated in the submitted Drainage Assessment, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development.

15. For the avoidance of doubt, the informal path within the northern part of the site adjacent to the SUDs basin shall be provided in accordance with the details shown on the approved Site Plan (drawing number MS01\_PH2-3\_PL01D) and Landscaping Plan (drawing number MS01\_PH2-3PL03E).

**Reason** - To avoid any ambiguity between the approved site/landscaping plans and other approved plans, which do not show the full path.

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

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

The application represents an acceptable departure from the Mosstodloch R1 designation in that, the proposal departs from policy E9 on the basis that the SUDs are located out with the designation and settlement boundary, however the existing extant consent already permits SUDs in this area and the SUDs proposals will result in minimal visual impact. Furthermore the area in which the SUDs is located is now incorporated within the boundary of the R1 designation in the MLDP 2020 and as such the proposals are compliant with the emerging plan designation. In all other respects the proposal accords with the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

### **List of Informatives:**

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

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

The developer must contact the Roads Authority Senior Engineer in the Traffic section at Moray Council HQ, Elgin - Tel 01343 563780 to discuss the

requirements for the introduction of a 40 mph speed limit on the U18E Stynie Road. The developer shall meet all the costs associated with the promotion and implementation of the 40mph speed limit.

The Construction Traffic Management Plan must include details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 min), proposals to safeguard non-motorised road users and control procedures to address the impact of heavy goods vehicles/construction traffic on the U18E Stynie Road which includes the repair of any damage to the public road attributable to the development and the prevention of materials or water being deposited on the public road.

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

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

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

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

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

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

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

THE DEVELOPMENT MANAGEMENT AND BUILDING STANDARDS MANAGER has commented that:

This development is subject to a Unilateral Obligation in regard to the arrangements for developer obligations towards addressing the impact of the development upon health care, with the proposed contribution payable in instalments.

SCOTTISH NATURAL HERITAGE has commented that:-

The applicant is reminded that all wild birds, their nests and their eggs are protected by law under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and that it is their responsibility to develop the site in accordance with all wildlife legislation and that works should be timed carefully to avoid the times of year when wild birds are likely to be nesting, i.e. the breeding season.

SCOTTISH SOUTHERN ENERGY have the following advice:

Our records indicate that an existing 11,000 volt overhead line passes along the southerly and easterly boundary of the site. All works in proximity to overhead lines must be carried out in accordance with The Health and Safety Guidance note GS 6. The legislation dictates that where works are to be undertaken within 9 metres horizontal distance from an overhead line positive steps must be taken to manage the risk identified on site. These steps can include, making the line dead, erecting barriers at ground level, erecting high level bunting and goal posts (6 metres from the line), using appropriate excavator, restricting jib movement, etc. I'm unsure of the layout of the development, however provided that any development works adheres to the above mentioned legislation we would have no issues with the development.

If the applicant would like quotation for the lines to be dismantled and replaced with underground cable, they should call Tel; 08000 483 515.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
		A Type detached - Blue
		CS Type semi detached - Blue
		CS Type semi detached - green
		D Type - blue
		D Type - green
2016/D/PL/01		D Type - elevations and floor plans
MC/2017/F/01		F Type semi - elevations and floor plans
		F Type semi detached - blue
		F Type semi-detached - green
		H Type semi detached - blue
2016/EB/PL/01		E Type/B Type - elevations and floor plans
KE03MC/2018/01		Cottage Flat A Type - elevations and floor plans
MC/2018/CS/01	B	CS Type semi detached - elevations and floor plans

MS01-ENG-530		Levels layout
MS01-ENG-531		Levels layout
2016/H/PL/01		H Type - elevations and floor plans
MS01-ENG-205	A	Drainage layout
MS01-ENG-206		Drained area plan
MS01-ENG-207		Overland flow layout
MS01-ENG-630		Infiltration basin sections
MS01-ENG-635		Swale section
MS01_ENG-640		Soak-away layout
MS01_PH2-3PL03	E	Landscaping Layout Phases 2-3
MS01-ENG-320		Street lighting layout
MS01_PH2-3_LP-1	A	Location plan
		A Type - green
MS01_PH2-3_PL01	D	Site layout
MS01_PH2-3_PL02	D	House type allocation
MS01_PH2-3_PL04	C	Phasing layout
MS01_PH2-3_PL05	D	Material conditions
PL17/D/PL/01		D Type Plot 17 - elevations and floor plans

Supporting information accompanying the decision:  
Drainage Strategy Report







## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00517/APP**

**Site Address:**

R1 Stynie Road  
Mosstodloch

**Applicant Name:**

Moray Council

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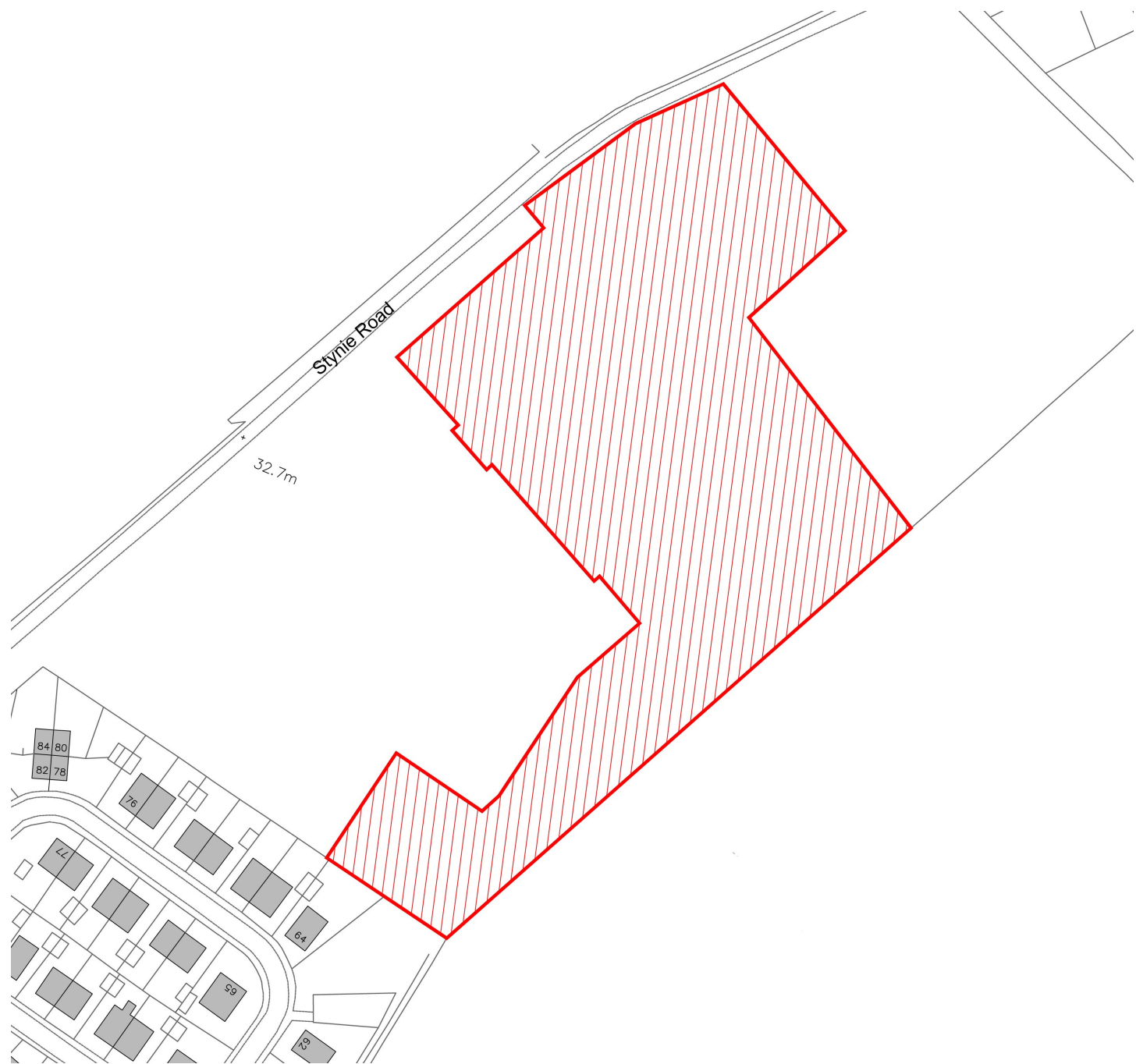
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### Location Plan



Site Location



Site plan











## PLANNING APPLICATION: 19/00517/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 for the erection of 46 affordable houses/units on the north and east portions of the R1 Stynie Road designation in Mosstodloch.
- Planning permission has already been granted for 30 affordable houses/units (18/01536/APP) covering the southwest portion of the site and this previous application was approved at this Committee on 26 March 2019. Construction of this first phase has now commenced.
- The proposed 46 residential units are broken down into 8 semi-detached single storey houses (type CS semi-detached, 2 bedrooms), 16 two storey flats (12 type A, 1 bedroom and 4 type H 2 bedrooms) and 22 two storey semi-detached houses (2 type B & E, 2 bedrooms, 16 type D, 3 bedrooms & 2 type F, 4 bedrooms). The 7 separate house types have a pitched roof form and are to be finished in smooth grey concrete roof tiles and a mixture of wet harl render and painted timber cladding on the walls and are finished to tie in with the first phase of the development.
- The houses will be connected to the public water supply and public foul sewerage system via a new proposed wastewater pumping station which is to be located within the northern area of the site. Surface water from the roads and widened Stynie Road will be disposed of via swales and infiltration basins located throughout the site. Curtilage surface water run-off will be infiltrated within private soakaways for each plot.
- The development has been designed around a large central area of open space, which has already been approved as part of the first phase of the development. The Landscaping Scheme comprises a mix of semi-mature/feature trees, heavy standard avenue/heavy standard trees, multi-stemmed/feathered trees, beech hedges, shrub beds/borders and planted swales.
- The following supporting documents have also been provided; Design and Access Statement, Planning Statement which incorporates the Sustainability Statement, Transport Statement, Flood Risk Assessment, Archaeological Evaluation and 'Drainage Strategy Report.

### **THE SITE**

- The site is approx. 1.65 hectares in area and comprises the north and east portions of the R1 Mosstodloch designation, which is identified as having an indicative capacity of 50 units within the Moray Local Development Plan (LDP) 2015. The site boundary does, however, also stretch to the north of the R1 designation to incorporate an area of land beyond the settlement boundary, which contains SUDs infrastructure, which will not only serve the proposed houses but also the rest of the houses in the remainder of the R1 designation.

- The site is designated as R1 in the emerging LDP and incorporates the area to the north of the site in which the SUDs is located and is identified as having an indicative capacity of 60 units.
- The site is generally flat and is former agricultural land, which is now cleared with construction underway.
- The site is bounded to the south by a residential estate, to the north-west by a public road (Stynie Road) and to the south-east and north-east by open agricultural land.
- The River Spey SAC, SPA and SSSI are located approx. 880m to the east.
- The SEPA indicative flood map shows that the site is identified as being at 'little or no risk' from river flooding. The SEPA flood map also indicates that the majority of the site is at low risk from surface water flooding, with small localised areas shown to be at 'medium or high risk'.
- Known sites of archaeological interest are present within the application site boundary, which have been the subject of previous archaeological investigations.

## **HISTORY**

**18/01536/APP** – Detailed application for the erection of 30 residential units in the south west portion of the R1 Stynie Road, Mosstodloch designation (phase 1). Approved at Committee and subsequently issued with permission following conclusion of the legal agreement on 10 June 2019.

**10/01267/APP** - Detailed application for the erection of 59 residential units at Stynie Road, Mosstodloch - approved at Committee and subsequently issued with permission following conclusion of the legal agreement on 8 February 2013.

**16/00083/APP** - S42 application for the variation of condition on planning application 10/01267/APP for the erection of 59 residential units at Stynie Road, Mosstodloch - approved at Committee and subsequently issued with permission following conclusion of the legal agreement on 12 March 2018.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes.

## **CONSULTATIONS**

**Strategic Planning and Delivery** - Policy and urban design comments provided. Amendments sought and provided to ensure fuller compliance with quality audit aims and with placemaking policy PP3 (see observations section).

**Moray Flood Risk Management** - Comments provided on surface water drainage arrangements, no objections subject to conditions.



**Developer Obligations** - Developer Obligations assessment carried out in relation to current Local Development Plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities. A Unilateral Instrument of Planning Obligation will be required to secure these contributions.

**Moray Access Manager** - No objections.

**Environmental Protection** - No objections.

**Aberdeenshire Council Archaeology** - No objections, the site has already been the subject of a programme of archaeological works.

**Scottish Water** - No objections.

**Environmental Health** - No objections.

**Contaminated Land** - No objections.

**Transportation Manager** - No objections subject to conditions and informatives covering access, parking, construction traffic and footway/cycleway provision.

**Housing Strategy and Development Manager** - No objections, subject to conditions regarding provision of affordable units.

**Innes Community Council** - No response received.

**Scottish Natural Heritage** - No objections. Have been involved with the Quality Audit process and are satisfied that there are no natural heritage issues that could be impacted upon.

## **OBJECTIONS-REPRESENTATIONS**

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

One letter of representation has been received from:-

[REDACTED]

The grounds for objection/representation are summarised as follows:

**Issue:** Concerns with regard to potential for impact on flora and fauna, especially in relation to ants and spiders and other insects.

**Comment (PO):** Scottish Natural Heritage have been involved with the quality audit process in relation to this application and have no objections to the proposals on the basis of the concerns raised. The quality audit identifies the application as green in terms of biodiversity, with all planting and landscaping proposed improving the biodiversity of the site which is presently a portion of agricultural field.

## **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 the Strategic Planning and 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 text accompanying the R1 Stynie Road designation in the emerging plan is very similar to that in the current 2015 Local Development Plan and reflects that there is an extant planning consent on site.

The main issues are considered below.

### **R1 Stynie Road (MLDP 2015 Policies H1, IMP1, Mosstodloch R1 and R1 Stynie Road proposed MLDP 2020) and departure issues (E9)**

The site comprises roughly half of the larger R1 Mosstodloch residential designation with an indicative capacity of 50 houses. The text accompanying the designation outlines that a 15m landscaped strip should be provided along the northern boundary and the avenue of trees along Stynie Road should be extended along the site frontage. In addition structural landscaping will be required within the site to ensure visually discrete groupings of houses. Road improvements to Stynie Road will be required, including widening of the road, provision of footways/cycleway, extension of street lighting and speed limits. Two points of access should be provided onto Stynie Road. Due to the proximity of the River Spey SAC, information should be provided in support of proposals to ensure measures can be put in place to avoid adverse impact on water quality.

The text accompanying the MLDP 2020 largely reflects the requirements of the 2015 designation, however, increases the indicative capacity of the site to 60 units, outlines that tree planting and hedging should be provided along the northern boundary and a pocket park should be provided on site.

With regard to the indicative capacity of the site, policy H1 and the designation text outlines that the designation capacities are indicative only and proposed capacities will be considered against the characteristics of the site and conformity with policies PP3, H8 and IMP1. With this in mind this application for 46 units along with the existing phase 1 approval for 30 units results in a total of 76 units across the whole of the R1 designation, however, the proposal is not considered to be a departure in this regard, as outlined in the design and layout section of this report.

The 15m landscaping strip along the northern boundary of the designation is replaced in the emerging plan by a requirement for trees and hedging along this northern boundary. The landscaping plan submitted in support of the proposals indicates tree planting along this northern boundary and a condition has been recommended to ensure hedging is also provided between the trees. Conditions covering these landscaping details and long-term maintenance of these areas will be attached to the formal decision notice.

The road, footpath and cycleway improvements together with two access points onto Stynie Road have been shown both within this current application and the previous phase one approval in accordance with the site designation and transportation requirements.

In terms of the potential impact on the water quality of the River Spey SAC, as was the case with the approval of the first phase of the development, conditions are again recommended to control and treat surface water run-off both during and after the construction of the development. Taking on board the conditions as recommended the interests of the River Spey SAC will be protected.

As with the previous approval on this site, some of the SUDs infrastructure will be located out with the settlement boundary and designation, however, this will result in minimal visual impact as it will take the form of a grassed detention basin, which will largely maintain the appearance of a rural location. With this in mind and given that SUDs infrastructure has already been approved in this location, a departure from policy E9 can be supported. The R1 designation boundary in the emerging LDP includes the area of land in which the SUDs is located and as such the proposals are compliant with the emerging designation.

### **Place-making: Design and Site Layout (PP3, PP2, H8, H9, E5 & IMP1)**

During consideration of the application, discussions with the applicant have sought to promote an acceptable form of development in terms of good design and place-making principles as advocated by policy PP3 and the related Supplementary Planning Guidance (SPG). As a material consideration, a quality audit (QA) process, covering design and site layout issues, has been agreed to assess the conformity of residential development with Policy PP3 place-making and Urban Design SPG principles.

The QA approach examines 12 criteria considered to contribute to place-making principles i.e. connections, public transport, safer environment, car parking, legibility/street hierarchy, character and identity, housing mix, access to facilities and amenities, natural features, open space, biodiversity, and landscaping.

A detailed QA process was undertaken in relation to the previous phase 1 application, which included a masterplan covering this site also and as a result many of the points raised as part of this original QA process have been incorporated into this current application. A QA has also been carried out in relation to this application which is summarised within the table below. This identified minor points in relation to increasing

natural surveillance over the area of open space in the southern corner of the site and ensuring that the new area of open space integrated seamlessly with the existing area of open space which leads through to Mossmill Park. Amendments were also requested to ensure the informal path around the SUDs in the northern corner of the site was connected into the path network serving the proposed houses. The applicants have subsequently submitted amended plans to address these points.

DESIGN PRINCIPLE	AUDIT	REVISED
Connections		
Public Transport		
Safer Environment		
Car Parking		
Legibility/Street Hierarchy		
Character & Identity		
Housing Mix		
Access to facilities and amenities		
Natural Features	N/A	N/A
Open Space		
Biodiversity		
Landscaping		

In summary, taking into account the amendments achieved as part of the original phase one application, which has been carried through into this proposal and the minor amendments made as part of this application, the amended proposals have incorporated all of the mitigation improvements highlighted in the QAs, and improve upon the proposal's compliance with place-making principles. These improvements result in a development which is acceptable and satisfies relevant planning policy and supplementary guidance including Policy PP3, H1 and IMP1.

The proposal is also considered to be compliant with Policy PP2. The submitted 'Sustainability Checklist' outlines that the residential units will be of an air tight design, with high insulation, maximisation of solar gain and use of triple glazed windows. In addition all units will be fitted with air source heat pumps.

Drainage from the site will be managed in a sustainable manner, with construction methods adopted to minimise waste and use of certified timber kits from sustainable sources. Pedestrian and cycle routes have been provided and a detailed landscaping scheme provided which incorporates green and blue infrastructure and maximises opportunities for planting which will enhance biodiversity in the area.

The presence of the central green and landscaped avenue along Stynie Road will provide a softer and welcoming development and ensures compliance with policy E5, in that over 20% of the designation area will be given over to open space (i.e. 24%). With the SUDs area to the north included this rises to 31%.

In light of the above considerations and subject to conditions as recommended the proposal would comply with the place-making, siting, design and amenity requirements of policies PP3, PP2, H8, H9, E5 & IMP1.

**Affordable/Accessible Housing (H8, H9, PP3, IMP1)**

All house/flats proposed are to be affordable housing and following consultation with the Housing Strategy & Development Manager, the proposed housing mix is considered to meet the needs of the area. A condition shall be attached as recommended by the Housing Strategy and Development Manager covering the delivery and management of the affordable housing.

In terms of accessible housing requirements, all affordable houses are built to an accessible standard and as such policy H9 is met.

**Transportation (Mosstodloch designation R1, T2, T5, T7, PP3, IMP1, IMP2)**

The applicants have incorporated all of the transportation requirements as set out within text accompanying the site designation. Following consultation the Transportation Section has confirmed that it has no objection to the grant of permission subject to conditions as recommended regarding access, parking, provision of a Construction Traffic Management Plan and on and off site footway/cycleway provision.

Subject to compliance with these conditions, the proposals would accord with the above policies.

**Drainage, Flood risk and Water Supply (EP5, EP7, EP10, IMP1)**

Policy EP5 requires surface water drainage to be dealt with in a sustainable manner using SUDs with a Drainage Impact Assessment (DIA) required for developments of 10 or more houses, together with consideration to be given to the impact of construction phase run-off.

The submitted DIA confirms that the development will be served by separate foul and surface water drainage systems, the latter to incorporate SUDs and be designed in accordance with sustainable development principles, reflecting the requirements of policy EP5.

Moray Flood Risk Management (MFRM) have reviewed the surface water drainage information provided and have raised no objection subject to conditions as recommended regarding the implementation of the surface water drainage scheme and measures to manage surface water discharge during the construction phase.

The SEPA flood map indicates that the majority of the site is at low risk from surface water flooding, although small localised areas are identified as being at 'medium or high risk'. A Flood Risk Assessment has been submitted with the application which concludes that the development will result in a neutral or better effect on the risk of flooding both on and off the site. MFRM has reviewed this information and has raised no objection on flood risk grounds.

Policy EP10 requires a public connection for development located within settlements. Scottish Water has raised no objection to the approval of the application.

Subject to compliance with the recommended condition, the proposal complies with policy EP5, EP10 and IMP1.

**Impact Upon Cultural Heritage (BE1, IMP1)**

There are no built heritage assets near the site, but given the presence of archaeology in close proximity to the site, consultation was carried out with the Aberdeenshire

Archaeological Service who has no objection to the development on the basis that the site has already been the subject of a programme of archaeological works.

### **Natural Environment (E1 and E3)**

The site itself is not subject to any site-specific nature conservation designation, although there are natural heritage interests within the wider area, in this case the River Spey SAC, SPA and SSSI located approximately 880m to the east. Compliance with the condition as recommended to control/treat surface water run-off both during and after the construction of the development, coupled with the fact that there are no significant gradients or drainage on site that could increase the risk of impacts, would ensure that the proposal would have no adverse impacts on these areas. Scottish Natural Heritage has been consulted in this regard and has raised no concerns with the approval of the application.

As the site is former agricultural land it is of limited natural heritage interest with low bio diversity value and unlikely to offer habitat for shelter and breeding of any protected species. A detailed landscaping plan has been submitted in support of the application which details hedge and tree planting throughout the site along with a naturalised SUDs features, which incorporates a mixture of grasses, hostas, ferns and foxgloves all of which will contribute to enhance the overall habitat value of the site.

Informative advice shall be attached highlighting relevant legislative requirements regarding the protection of nesting birds that may be present along the site boundaries.

From the above the proposal complies with policies E1 and E3.

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

A Developer Obligations assessment has been carried out in accordance with current Local Development Plan policy and associated supplementary planning guidance and has identified the need for contributions towards healthcare. The applicants have confirmed that they are agreeable to the contribution, which will need to be secured via a legal agreement prior to the grant of permission.

### **Conclusion**

On the basis of the above and subject to the conditions recommended the proposal is acceptable.

### **REASON(S) FOR DECISION**

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

The application represents an acceptable departure from the Mosstodloch R1 designation in that, the proposal departs from policy E9 on the basis that the SUDs are located out with the designation and settlement boundary, however the existing extant consent already permits SUDs in this area and the SUDs proposals will result in minimal visual impact. Furthermore the area in which the SUDs is located is now incorporated within the boundary of the R1 designation in the MLDP 2020 and as such the proposals are

compliant with the emerging plan designation. In all other respects the proposal accords with the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

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Development Management & Building Standards Manager**





## **APPENDIX**

### **POLICY**

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

##### **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.

##### **Primary Policy PP1: Sustainable Economic Growth**

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

##### **Primary Policy PP2: Climate Change**

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sq m should address the following:

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected
- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development. This policy is supported by supplementary guidance on climate change.

### **R1: Stynie Road**

This is an existing designation carried forward, and planning consent has previously been granted for a development on site. A 15m landscaped strip should be provided along the northern boundary, and the avenue of trees along Stynie Road should be extended along the site frontage. In addition, structural landscaping will be required within the site to ensure visually discrete groupings of houses.

Road improvements to Stynie Road will be required, including the widening of the road; provision of footways/cycleway; extension of street lighting; relocation of speed limit. 2 points of access from Stynie Road will require to be provided.

Due to proximity to River Spey SAC information should be submitted to support proposals demonstrating that adequate protection measures can be put in place to avoid impact on water quality.

### **Policy E9: Settlement Boundaries**

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

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

## **Policy 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 H9: Housing Mix/Accessible Housing**

Proposals for multiple houses must meet the needs of smaller households, older people and other needs (e.g. extra care housing) identified in the Council's Housing Need and Demand Assessment.

All new residential developments must provide a range of housing of different types and sizes which should reflect the requirements of the Local Housing Strategy. Different house types should be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Housing proposals of 10 or more units will be required to provide a proportion of wheelchair accessible housing. Flexibility may apply on less accessible sites and/or where an alternative acceptable housing mix is proposed.

Off site provision may be acceptable where sites do not have good access to local services and facilities and are not considered appropriate for housing for older people.

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

## **Policy E2: Local Nature Conservation Sites and Biodiversity**

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

## **Policy E5: Open Spaces**

### **Safeguarding Open Spaces**

Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or
- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

### **Provision of new Open Spaces**

#### **Quantity**

New green spaces should be provided to the following standards;

- Residential sites less than 10 units - landscaping to be determined under the terms of policies PP3 and IMP1 to integrate the new development.
- Residential sites 10-50 units and new industrial sites- minimum 15% open space
- Residential sites 51-200 units- minimum 20% open space
- Residential sites 201 units and above and Business Parks- minimum 30% open space including allotments, formal parks and playspaces within residential sites.

#### **Quality**

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible
- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function

- Support the principles of Placemaking policy PP3.

## **Allotments**

Proposals for allotments on existing open spaces will be supported where they do not adversely affect the primary function of the space or undermine the amenity value of the area and where a specific locational requirement has been identified by the Council. Consideration will include related aspects such as access and car parking and not just the allotment area itself.

## **Policy 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 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 T1: Transport Infrastructure Improvements**

The Council will promote the improvement of road, rail, air and sea routes in Moray and priority will be given to:

- a) dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised.
- b) improving the A95 (Keith to Grantown) route.
- c) Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.

- d) improving the Aberdeen to Inverness railway for passengers and freight by providing route and service enhancement.
- e) improving harbour facilities for freight and leisure including the diversification of the commercial harbour at Buckie for offshore renewables. Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.
- f) improving access to air facilities, at Aberdeen and Inverness, in particular through public transport, and the establishment of a railway station at Dalcross.
- g) improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.

Proposals that compromise the implementation of these priorities will not be acceptable.

## **Policy T2: Provision of Access**

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

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

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



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

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

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

Significant travel generating proposals will only be supported where:

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

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

### **Policy T5: Parking Standards**

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

### **Policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks**

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

## **Policy IMP1: Developer Requirements**

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

## **Policy IMP2: Development Impact Assessments**

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

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.

- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.
- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

### **Policy IMP3: Developer Obligations**

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

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

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

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

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

#### **R1 Stynie Road 3.1 ha 60 units**

- Planning consent has previously been granted for development.
- Landscaping must be provided along the northern site boundary to manage the transition between development and the countryside. This must comprise a mix of hedging and trees.
- A 15m green corridor must be provided along the western boundary along Stynie Road. This must incorporate an avenue of trees, beech hedging and a dedicated foot and cycleway.

- A Pocket Park must be provided.

Road improvements to Stynie Road will be required, including widening, provision of pedestrian/cycle way, extension of street lighting and relocation of the speed limit.

- Two points of access must be provided.
- Drainage Impact Assessment (DIA) required.

## **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.

**PP3 INFRASTRUCTURE & SERVICES.**

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

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.



**b) Development proposals will not be supported where they:**

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

**c) Harbours.**

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

**d) Developer Obligations.**

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

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

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

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

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

## **DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

### **(i) Design**

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

### **EP2 BIODIVERSITY**

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

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

Proposals for 4 or more housing units or 1000 m<sup>2</sup> or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

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

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

## **EP5 OPEN SPACE.**

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

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

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

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

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

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

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

- |               |                                      |
|---------------|--------------------------------------|
| <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.

## **EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.**

### **a) Flooding.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **c) Water Environment**

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

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

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

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

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

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

### **EP13 FOUL DRAINAGE**

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population must connect to the public sewerage system unless connection is not permitted due to lack of capacity. In such circumstances, temporary

provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been allocated within its investment Programme and the following requirements have been met;

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

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

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

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

### **a) Pollution.**

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

### **b) Contamination.**

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

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

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

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

## WARD 05\_17

**18/01453/APP****19th November 2018****Restore and convert existing Millie Bothy to office and erect 8 no self-catering holiday units at Millie Bothy Roseisle Beach Moray for Millie Bothy Ltd****Comments:**

- A SITE VISIT has been carried out.
- The application raises matters of wider community interest and/or planning significance.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- Advertised as a departure from the development plan.
- 430 individuals submitted representations, of these 411 are objections and 19 are in support of the proposal.

**Procedure:**

None.

**Recommendation****Refuse – For the Following Reason (s):-**

The proposal is contrary to policies IMP1, PP3, ED7 and ED8 of the Moray Local Development Plan (MLDP) 2015 for the following reasons:

1. The introduction of tourism self-catering huts and the associated intensification of activity in this location would have a detrimental impact upon the secluded character and rural amenity of this sensitive area, therefore the proposal represents an inappropriate form of development for this location.
2. Development of the nature proposed would significantly alter the character of this unspoilt open dune area where its high amenity value for current users would be compromised by the introduction of an incompatible use. The existing dune area and grassland contributes to character and appearance of this wider area of unspoilt coastline.
3. The proposed accommodation would not be located so as to protect and enhance the natural environment in this location where this part of Roseisle Forest and its undeveloped nature is of wider benefit to tourism and the wider local community.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
SK_00_304		Fishing huts - elevations
SK_00_305		Plant/refuse store - elevations and floor plan
SK_90_101		Site plan - detail layout
SK_90_100	D	Site plan - general layout
901	A	Site sections
SK_00_102	A	Bothy ground floor
SK_00_303		Bothy elevations
SK_00_201		Bothy sections
SK_00_100	B	Site plan proposal
SK_00_100		Fishing hut - floor plan
SK_200		Fishing hut - sections
		Site plan showing location of treatment plant and soak-away
SK_90_104	A	Site location plan
SK_90_100	E	Site plan - general layout





## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**18/01453/APP**

**Site Address:**

Millie Bothy

Roseisle Beach

**Applicant Name:**

Millie Bothy Ltd

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## Location Plan



**Site Location**



Site layout































## PLANNING APPLICATION: 18/01453/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**

- Planning permission is sought to restore and convert Millie Bothy to an office/art gallery and erect 8 self-catering holiday huts at Millie Bothy, Roseisle Beach west of Burghead (following amended plans).
- The self-catering huts are located to the east of Millie Bothy in two rows.
- The self-catering huts would sleep 4 and have a floor area of 35sqm comprising 1 double bedroom, a shower room, kitchen and a dining/sitting room area.
- External materials of the self-catering huts include dark grey/black timber with dark grey/black profiled metal roofing.
- Millie Bothy (a former Fisherman's Bothy) will be re-built using reclaimed stone and red profiled metal roofing.
- Power for the site will be a combination of solar power, combined heat and power unit (CHPU), gas and wood. A Wood burning stove is proposed in each hut.
- Toilets will be compostable.
- Grey water will be disposed via a treatment plant.
- Water to the site will be provided by a desalination unit which will extract a maximum of 10,000 litres of sea water per week using a non-fixed commercial water hose (25-50mm in diameter). It is intended to lay the hose from the site to the sea at high tide once per week for a period of 2-3 hours.
- Vehicular access to the site for staff (3 per day) and service vehicles (2 per day) would be via an existing forestry access off the B9080 Kinloss to Burghead Road south of the site, this access would not be used by occupants of the self-catering huts).
- Car parking for occupants is proposed to be located within the existing Roseisle Forest Car Park under an agreement with Scottish Forestry where a voucher scheme is proposed. The car park is located 1.9 km from the site and a golf buggy will take less able walkers from the car park to the site along an existing forestry track.
- A new footpath is to be created along the eastern boundary of the site leading to the beach.
- Supporting Documents submitted with the proposal include a Planning Statement (Nov 2018), Design Statement (Nov 2018), Drainage Impact Assessment (July 2019), SUDs Statement (Nov 2018), Ecological Survey and Assessment (Nov 2018), Habitat Plans (Nov 2018), Designated Site Plan (Dec 2018), Desalination System Technical Information (Dec 2018), Letter of support from Visit Scotland (Jan 2019), Report for SEPA, Bat Roost Assessment (July 2019) and Supplementary Planning Statement (July 2019).

## **THE SITE**

- The proposal site is approximately 7500 sqm in size and is located 1.9 km north east of Roseisle Forest Car Park.
- The site is located in a clearing within Roseisle Forest, 75 m from the coast. The Roseisle Forest (a coniferous plantation) bounds the site to the west, east and south, with an area of open coastal grass to the north.
- The site is currently coastal foreshore; the majority of the site comprises undulating vegetated dunes and grass. Some naturally seeded trees are located on the site around the boundaries of Roseisle Forest.
- Two paths run through the site that are used by the public, horse riders and cyclists. The paths connect the forest to the beach.
- Millie Bothy lies to the south west of the site. The Bothy was built in the 1800's and was used as a salmon bothy. The Bothy is currently a ruin, with only partial walls remaining and one gable wall intact.
- The Millie Burn runs along the south eastern boundary of the site.
- The proposal site bounds (northern boundary) the Area of Great Landscape Value (AGLV) and Coastal Protection Zone (CPZ).
- The north east section of the site lies within the National Forest Inventory Scotland (NFI) 2014.
- The site's western boundary is just out with the Moray Firth Special Area of Conservation (SAC). The site therefore does not occupy any environmental or landscape designation.

## **HISTORY**

17/01563/PE – Proposed holiday accommodation – the response (November 2017) provides initial feedback on the proposal, including comments from consultees and information requirements expected to accompany any formal application for planning permission.

## **POLICY - SEE APPENDIX 1**

## **ADVERTISEMENTS**

- Advertised for neighbour notification purposes and as a departure to the Moray Local Development Plan 2015.

## **CONSULTATIONS**

**Moray Access Manager** – No objection

**Contaminated Land** – No objection

**Moray Flood Risk Management** – No objection

**SEPA** – No objection subject to a condition being attached to the planning consent (if permitted) regarding all development (buildings and plant) must be on land at 6m above Ordnance Datum (AOD) sea level or above in relation to the topographic survey provided.

**Building Standards** – A Building Warrant is required.

While the Building Regulations are considered under separate legislation to the planning application process, for information, the below requirements would have to be met.

As part of the Building Warrant verification process the applicant will be required to demonstrate that they meet the requirements of the Mandatory Standards (MS), this can either be by following the guidance contained in the clauses to each MS or by proposing an Alternative Solution where the intention is to deviate from said guidance.

Standing Advice given on Mandatory Standards for various subjects: -

- **FIRE - MS 2.12 - Every building must be accessible to fire and rescue service** (Clause 2.12.1 - Requires SFRS vehicle access be provided to at least one elevation of every building and Clause 2.12.2 - Requires that this access be a minimum of 3.7M wide and capable of supporting a minimum axle loading of 14 tonnes. Where the route is a dead end, then turning facilities will also be required within the site.).
- **MS 2.13 - Every building must be provided with a water supply for use by the fire and rescue service** (Clause 2.13.3 – This deals with Alternative water supplies and there are three options available under this clause:
  1. a charged static water tank of at least 45,000 litres capacity, or
  2. a spring, river, canal, loch or pond capable of providing or storing at least 45,000 litres of water at all times of the year, to which access, space and a hard standing are available for a pumping appliance (see clause 2.12.2), or
  3. any other means of providing a water supply for fire-fighting operations considered appropriate by the fire and rescue service.
- **SAFETY – MS 4.1 - Every building must be designed and constructed in such a way that all occupants and visitors are provided with safe, convenient and unassisted means of access to the building** (Clause 4.1.1 It is not a Building Standards requirement to provide parking within the curtilage of a development it is up to the developer or it is a planning requirement, Clause 4.1.2 There should be a setting down point for the development for the convenience of a person arriving at a building in a vehicle driven by another, Clause 4.1.3 There should be an accessible route to the principal entrance to a building, and to any other entrance that provides access for a particular group of people (for example, a staff or visitor entrance), from: a road, and any accessible car parking provided within the curtilage of the building. There should also be an accessible route between accessible entrances of different buildings within the same curtilage and Clause 4.1.5 The length of an accessible route to a building should be no more than 45M).

**Scottish Forestry** – Tree Survey required within the redline boundaries to establish the current habitat characteristics of the part of the site within the National Forest Inventory. Compensatory Planting required.

**Transportation** – No objection subject to conditions (regarding improvements to the service access and no water draining or loose material being carried onto the public road carriageway) and informatives being attached to the planning consent (if permitted).

**Heldon Community Council** – Object due to proposal being a departure from policy ED7 (Rural Business Proposal) and ED8 (Tourism Facilities and Accommodation) of the Moray Local Development Plan 2015, lack of information on flooding, proposed overnight parking arrangements for guests, service vehicle arrangements unviable and no measures can be put in place to prevent them becoming more frequent, insufficient information on location and maintenance of compostable toilets/plans and increased footfall could lead to erosion of sand dunes.

**Scottish Natural Heritage** – No objection - Advice on various subjects provided including:

- Moray Firth Area of Conservation (SAC), Appropriate Assessment in view of SAC's conservation objective for bottlenose dolphins is required (carried out by Moray Council, see **Appendix 3**);
- Moray Firth Special Protection Area (pSPA), consideration required on the status of the pSPA as the requirements of the Habitats Regulations applies;
- European Protected Species, Bats (survey required), Dolphins, Otters (appraisal required of potential disturbance as a result of human presence on the site overnight);
- Nationally Protected Species (Breeding Birds);
- Coastal Habitats and Plant Species (Habitat Management Plan required, covered by condition (if permitted). Habitat Management Plan to include an assessment of the extent of dune habitat affected – must be based on the locations of all relevant proposal elements, consideration of the impacts of the proposal on areas of dune habitat in relation to its policies on biodiversity and its responsibilities under Scottish and European law. This includes impacts arising from but not limited to the siting of all infrastructure and increased footfall/recreational damage by residents and visitors.
- Climate Change – Coastal erosion directly adjacent to the site.

**Private Water Supply** – No objection subject to two conditions being attached to the planning consent (if permitted) regarding an adequate and wholesome water supply being provided and effective treatment required to ensure that the private water supply complies with the relevant parameters in The Private Water Intended for Human Consumption (Private Supplies) (Scotland ) 2017.

**Strategic Planning and Delivery** - Object – departure from policies E7 (Areas of Great Landscape Value and impacts on the wider environment), E8 (Coastal Protection Zone), ER2 (Development in Woodlands), ED7 (Rural Business Proposals), ED8 (Tourism Facilities and Accommodation), IMP1 (Developer Requirements), PP1 (Sustainable Economic Development), EP7 (Control of Development in Flood Risk Areas) and E3 (Protected Species) of the Moray Local Development Plan 2015.

In summary the response raises concern over the proposed development, where it fails to safeguard and protect the natural environment or landscape and would impact upon the recreational value of the Roseisle forest and beaches.

*Officer note – the site was subsequently amended to remove it from the CPZ and AGLV designations, which is of relevance to assessment under policies E7 (Areas of Great Landscape Value and impacts on the wider environment) and E8 (Coastal Protection Zone).*

**Environmental Health** – No objection

**Marine Scotland** – No objection

**Aberdeenshire Archaeology** – No objection subject to a condition (regarding a photographic survey being carried out prior to any works commencing) being attached to the planning consent (if permitted).

**Developer Obligations** – No contribution sought due to the nature of the proposal, it is not deemed to have a detrimental impact on local infrastructure that requires mitigation through developer obligations.

**Equal Opportunities Officer** – No objection. It is noted that for anyone with mobility issues a buggy would be available to take them from the carpark to the huts.

## **OBJECTIONS-REPRESENTATIONS**

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

430 individuals submitted representations, of these 411 are objections and 19 are in support of the proposal.

[Redacted content]

[REDACTED]



[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

One neighbour notification period was run during the consideration of the application all representations have been considered and are summarised below. Where issues raised are common to all representation or have been re-stated, the below summary will not reiterate/repeat issues clearly stated at least once. All objections/representations have

been read and where material, given the appropriate consideration prior to the recommendation now reached.

Headings of objection reasons selected by objectors from objection/representation web link:

- Affecting natural environment
- Road Access
- Inadequate plans
- Traffic
- Precedent
- Drainage
- Litter
- Over-development of site
- Contrary to Local Plan
- Parking
- Road Safety
- Noise
- Smell
- Activity at unsociable hours/behaviour
- Reduction of natural light
- View affected

The grounds for objection/representation are summarised as follows.

The main points of the representations are:

### **Affecting Natural Environment**

- The proposal is detrimental to the surrounding natural environment in an area renowned for its beauty and history; it will destroy the ambience of the area and adversely affect this landscape of significant and regional importance.
- Environmental impact will be horrendous, not only though the construction phase but also during the running of the site. It will be detrimental to the environmental tranquillity of the uninhabited and undeveloped woodland and coastal experience of the Roseisle Forest.
- This is the urbanisation, of an easily accessible on foot, recreational area.
- Unnecessary and inappropriate to develop and destroy this naturally beautiful and wild environment.
- Loss of amenity and damage to biodiversity.
- It can only be a negative thing to bring building works, unnatural structures, obstruction of a view point and increased numbers of people concentrated in one area, bring litter, noise pollution, potential conflicts with existing users/locals and damaging localised foot traffic.
- The dune system is already a fragile ecosystem and a development such as this will not help its continued survival.
- Burghead Beach is one of few unspoiled beaches left in the UK.
- The area is unique in Roseisle Forest in that it has a freshwater burn entering the sea and a large clearing.
- The proposal is unacceptable in an area of natural beauty and unrestricted access.



- Despite the innovative design of the proposal, the site is simply too sensitive to accommodate a development of this scale and should be refused – an alternative site should be used.
- Over the last 10 years Roseisle has been subjected to numerous new builds within woodland, resulting in the severe loss of trees and wildlife.
- This is an unneeded development for this area, which is better served by the site remaining as it is. Unspoilt countryside can never be replaced.
- It would create much disturbance from greater footfall and vehicular access.
- The fact that it has no development and no human footprint makes it a huge attraction to our many visitors and to locals alike.
- This is a very special place the coastal path from Burghead to Findhorn is a huge asset to our Moray Coast. There are no other structures in the any part of the forest between Findhorn and Burghead apart from the car park toilet facilities and the remains of Millie Bothy.
- Any development no matter how sympathetic will intrude into the natural and wild aspects of this landscape and change it forever.
- Roseisle is a special kind of wilderness offering people an emptiness that is truly accessible and really very special which is held close in the hearts of many locals.
- The impact of construction, unnatural lighting, noise and human interference in one of the more wild spaces along our coast means this plan should be turned down.
- There are fewer and fewer areas in Moray where locals and visitors can walk, cycle, swim and sail without coming across developments such as this.
- It would be a sin to allow a development of this magnitude in this location.
- The ruined bothy is actually part of this ambience and contributes greatly to the surroundings. There should be a conservation order placed on this site.
- It seems counterproductive to allow a development on a piece of dune habitat for the benefit of a few people when dune restoration is in progress at Lossie forest at a huge cost. The large removal of dune and habitat links through the golf course has already taken place.
- Removal of marram grass will de-stabilise the dunes.
- Noisy and anti – social behaviour from guests is going to be detrimental to the quiet enjoyment of the locality.
- Is the dune system able to cope with the development?
- No information given on the felling of trees.
- Moray and its beautiful coastline have a world class tourism offering which needs protected from over-development.
- The Bothy is part of this ambience and contributes greatly to the surroundings.
- The fact there is no development or human footprint is what makes it a huge attraction to its many visitors.
- Change character of land use.

#### **Comments (PO):**

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity/character of the area.

An Ecological Survey and Assessment and additional was submitted that addressed some of the above issues adequately. In addition to this if planning permission were to be granted a Construction and Habitat Survey would be required to be carried out prior to any works commencing.

It is speculative to presume that visitors to the site would conduct themselves in an anti-

social manner.

**Summary of comments from applicant:**

Many objectors have stated that the development will affect the natural environment and have erroneously said that it will destroy the dune structure and negatively impact the local wildlife.

As per the Ecological report prepared by Dr Eric Donnelly of A9 Consulting:

A small amount of dune habitat will be altered and it is planned that this will be mitigated for by the removal of self-seeded conifers and scrub from the site. This is expected to lead to a net positive increase in the coverage of dune habitat.

Marram grass from area to be altered will be removed carefully and placed in the areas which have been altered under the conifers and also any areas damaged by foot passage or rabbit grazing. This will increase the coverage of Marram dune habitat however and so there is likely to be a net benefit to this habitat from the development in the short term. Rabbits are to be eradicated humanely as part of this development, which will reduce pressure on the dunes and have a benefit for the ecosystem stability.

Protected mammals namely badger, otter, pine marten and red squirrel will not be affected by the development.

The potential for roosting bats is low given the open nature of the site. If required, however, we will be happy to carry out further investigations to ascertain the presence or not of bats.

With regards to birds, the development will not have a significant effect and every care and attention will be taken during the construction phase to mitigate any negative effects on breeding birds.

The effect on the quality of the water in the Millie Burn has also been mentioned. As per our plans, all toilets are to be compostable so no sewage will be released into the burn. Furthermore, all grey water will be treated to SEPA standards. As per the Roseisle Land Management Plan 2015-24, the Millie Burn is defined as at “bad ecological status for heavily modified water bodies” and agricultural factors due to farms bordering the burn further south are a major determinant of the burn’s condition. Any activity from Millie Bothy Fisher Huts will not have a detrimental effect on the burn.

It is also extremely important to note that the Millie Bothy site is only five acres in size and portion of which is being proposed for development is less than half of that. Roseisle Forest covers some 1,825 acres so the development area equates to 0.14% of the total forest.

Furthermore, as per the Roseisle Land Management Plan 2015-24 approximately 11% of the forest is classified as open space/felled therefore any claims that there will be a significant loss of open space is quite wrong. Indeed, there is a similar site to the west of the Millie Bothy which was the site of the former Bessie Bothy and icehouse and has a similar open feel.

Also, the buildings will be wooden huts and will be built in such a way that it is removable with little or no trace at the end of its life.

Greater footfall has been claimed by some objectors as a reason to deny this planning application. Roseisle Forest is visited by many people on a daily basis and an additional 40 people will be negligible in our opinion. According to a public consultation carried out by the Forestry Commission and referenced in the Roseisle Land Management Plan 2015-24, it was established that visits to the beach was the primary purpose of the majority of the respondents (70%) and so the area where the Millie Bothy is sees less people visiting than the main beach area.

Furthermore, during summer months, wild camping is already prevalent throughout the forest.

We will ensure that all lighting installed will be sensitive to the area and minimise light pollution. As we will be utilising solar powered lights for the most part, any lights will not be overly bright.

Every care has been taken with the placing of the huts on the site to ensure no views will be affected. Due to the height of the sand dunes to the north of the Millie Bothy site, the huts will not be seen from the beach and will have no effect on the visual identity of the Burghead – Findhorn coastline. Additionally, the huts will also be well hidden from the core path.

### **Design**

- The buildings, in my opinion, are totally out of sympathy with their surroundings; it looks like a PoW camp from the aerial view.
- The proposed buildings are unsightly.
- The Millie Bothy ruin in its current state blends into the natural landscape and is a small reminder of the area's history without being an intrusion on the eye.
- Do not need more unsightly 'sheds' like those built along the shoreline at Findhorn.

### **Comment (PO):**

It is agreed that the proposal would negatively impact on the site and surrounding area. Please see observation section for further information.

### **Precedent**

- Areas like this are a valuable asset to the region and initiating this project could lead to further development creeping in the future once infrastructure is in place.
- Set a precedent for other developments in other local beauty spots.
- This would be part of a larger hut scheme.

### **Comment (PO):**

The current application must be assessed on its individual merits and under the current Local Development Plan. Speculation about further proposals of a similar nature in Moray are not material to the current application and such proposals would be separately assessed under separate planning applications.

### **Summary of comments from applicant:**

Some objectors have suggested that the development will set a precedent for further development within the forest. It is important to remember that the Millie Bothy site was previously the site of a commercial fishing operation and lodging for many years. Many objectors are relatively new to the area, as stated in their comments, and have no knowledge of the history of the Millie Bothy.

Approval of the development will set an undesirable precedent - in terms of this, it should be noted that every application requires to be considered on its own merits, taking account of the circumstances of the particular application. Approval of this application would not therefore set a precedent for the approval of any future applications here or elsewhere along the coast or within the forest.

### **Contrary to Policy**

- Hope the Council support their own ambition to keep the Moray Coast undeveloped.
- The site is adjacent to a Coastal Protection Zone and identified as part of the Special Landscape Area Designation because of its qualities – for this reason alone it should be protected from development.
- Contrary to Moray Local Plan.
- In the Moray Woodland Strategy it states ‘promote biodiversity and safeguard the environment’ which the clearing and building will do the opposite. It is also meant to ‘promote the health and wellbeing of our communities’, current users of the site could be compromised.
- Woodland strategy has a key theme of expanding, protecting and enhancing our woodlands – this cannot be administered if the development goes ahead.
- Although the Roseisle Forest has been identified within the Moray Woodlands Forest Strategy (MWFS) (so glibly quoted by the applicant as justification for this development) as suitable for holiday lodges the assumption would be that they are constructed within the woodland, integrated into the trees, hopefully finished in natural looking timber and not, as is proposed, being constructed on one of the two remaining unspoilt open grassland areas that exist between Burghead and Findhorn.

### **Comments (PO):**

The proposal is contrary to various policies of the Moray Local Development Plan 2015 as detailed in the observations section.

The proposal does however comply with the woodland policies of the Moray Local Development Plan 2015 and supplementary guidance as detailed in the observations section.

### **Summary of comments from applicant:**

In respect then of the CPZ, Policy E8 makes it clear that development within the CPZ will generally be refused unless certain specific criteria are met. On the basis that no built development is proposed within the CPZ itself there is no conflict with Policy E8. In any event, the Policy makes it clear that the types of development that are considered appropriate in the CPZ include low intensity recreational or tourist use. In this regard 8 small scale units with a total floor area of 240m<sup>2</sup> on a site of 2ha (being equivalent to only 4 units per hectare) with these being off-grid and, as such, very low impact, should be considered low intensity and therefore to comply with this element of the Policy.

It should be noted that the proposed development would in fact enhance the experience of users of the forest through upgrading of the existing path that connects the forest to the shore, with the development located such that existing trees would screen this from users of the wood until they came into the clearing, with the refurbished bothy there to discover and add interest to a wide range of visitors. Likewise, it should be noted that the proposed development is in keeping with the most recent Landscape Character Assessment for the area as set out in paragraphs 3.21 to 3.23 of the supporting planning statement (submitted July 2019) (the 1998 assessment referred to in the Development Plan Team’s response

having been superseded by this, as set out above), and so also safeguards forest users' recreational experience in this regard.

A letter of support has also been submitted by Moray Speyside Tourism which likewise highlights the growing market for 'slow' tourism and the unique market opportunity that the huts at Millie Bothy would provide to capture this market. The letter also highlights that the proposed development is closely aligned with the Moray Woodland Strategy which emphasises the need to support local providers to develop schemes such as forest lodges or glamping huts and importantly identifies Roseisle as a potential location for such a development.

The development also clearly complies with the relevant specific criteria set out in Policy PP3 in that it:

- creates a place with character, identity and a sense of arrival - see Distinctive above;
- creates a safe and pleasant place – see Safe and pleasant below;
- is well connected and easy to move around, and designed to encourage social interaction and healthier lifestyles - in being easily accessible from the B9089 and with a regular bus service from Elgin to Roseisle, then restricting vehicular access requiring visitors to walk to the Bothy and the huts;
- includes buildings and open spaces of high standards of design, and which incorporate sustainable design principles – see the six qualities of successful place making below, and particularly Resource efficient, with the open space being the existing beach and surrounding woodland;
- does not have streets as such, but is designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars – see Easy to move around and beyond below, and also noting that there will be no cars parked on the site and no new car parking provided elsewhere; and
- maintains and enhances the natural landscape features and distinctive character of the area.

Policy PP3 Placemaking, seeks to encourage high quality design, in terms of which the proposed development demonstrates the six qualities of successful placemaking being:

- *Distinctive* – in that, by restoring the Millie Bothy in a way that respects the existing building fabric and stonework and creating new huts in a traditional local fisher hut style using a simple palette of materials and setting them within the existing undulations, the development clearly complements local features and creates a place with a sense of identity;
- *Welcoming* – in creating a sense of arrival in the clearing from the woods (whilst not being visible from the beach) and accentuating the Bothy as a local landmark;
- *Adaptable* – with the Bothy, once restored, being capable of being used for a number of purposes, and the huts (including the concrete piers) being removable so that the land can be restored to its current state;
- *Resource efficient* – with the huts being off grid, using solar power, combined heat and power and gas and wood, as well as compost toilets;
- *Safe and pleasant* – in that visitor vehicles will not be permitted on to the site thereby considering the place before vehicle movements, and that the huts are grouped in such a way as balance privacy with a sense of security through encouraging activity in the area; and
- *Easy to move around and beyond* – with, as stated above, the needs of people placed before the movement of motor vehicles, the provision of a golf buggy pick up service to allow access for those less able to walk, and the enhancement of the

existing path within the site and the creation of a new walking route around the Millie Burn.

Related to the location of the proposed development, Policy E7 Areas of Great Landscape Value and impacts upon the wider landscape and Policy E8 Coastal Protection Zone respectively seek to protect areas of great landscape value (AGLVs) and the Coastal Protections Zone (CPZ). While no built development is proposed within either the AGLV or CPZ, it is recognised that a small area of the application site as a whole extends into the Burghead Findhorn Coast AGLV and the Moray Coast CPZ (the coastline adjacent to the proposed development being dual designated as both) and that, given their proximity, due consideration requires to be given to the potential impact on these designations.

As there is no indication that the proposed development would have any negative impact on the AGLV, and it is demonstrably consistent with the landscape character as described in the LCA, there is no justification for refusing the application in terms of Policy E7.

The Proposed Local Development Plan (PLDP) also removes the current CPZ designation and replaces the existing AGLV designation with a new Special Landscape Area (SLA) designation. In terms then of the PLDP's spatial strategy, the application site is wholly included in the proposed Culbin to Burghead Coast SLA, and is also identified as being located in a pressurised and sensitive rural area.

Within the proposed SLAs, the PLDP will only permit developments where they:

- do not prejudice the special qualities of the designated area;
- adopt the highest standards of;
- avoid adverse effects on the landscape and visual qualities the area is important for; and
- are for one of a set number of uses, including proposals involving appropriate extensions to existing buildings (which this proposal does).

In terms then of the special qualities (including both landscape and visual qualities) of the proposed SLA, the statement of importance for this expressly recognises that the forests at both Culbin and Roseisle provide extensive recreational opportunities, both formal and informal, a characteristic which the proposed development would be in keeping with. It also notes that, of the two, Roseisle is more commercial in character and, while Culbin is described as less frequented and having a distinct sense of wildness, Roseisle is not referred to in the same way.

In respect then of sensitivity to change, it is noted that the more remote and strongly natural character of the coast in the Culbin area would be sensitive to significantly increased numbers of visitors, but the same is not said for the eastern part of the proposed SLA, within which the application site is located. There is then nothing in the statement of importance that would preclude the development proposed in terms of this application, with this being in keeping with the character of that part of the proposed SLA within which the application site is located, as described above.

#### **Over-development of the Site**

- Unwarranted over development of the site.
- Development is too large in terms of building and is out of place in design and in historical significance.

**Comment (PO):**

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area.

**Summary of comments from applicant:**

As per the Moray Woodland & Forestry Strategy, “The provision of high-quality, affordable, varied accommodation options in and around Moray’s woodlands is crucial to improving and developing tourism in Moray’s woodlands.” The proposed development comprising of just 8 huts is very small particularly when compared to other holiday developments in the surrounding area.

The Forestry Commission, who is the only other landowner, has already considered Roseisle Forest for the development of up to 60 cabins just a few hundred metres from the Millie Bothy Site. Whilst, on this occasion, a forest in the Borders was chosen rather than Roseisle it is conceivable that the Forestry Commission will choose to develop cabins at Roseisle in the future. If so, the Millie Bothy Fisher Huts would be much smaller in size and as they are off-grid, also less intrusive on the landscape.

**Impact of Tourism**

- The Roseisle forest while it remains unspoilt by development is a benefit to the local community and part of the attraction the area holds for tourists.
- The access to and from the beach via the bothy area is key to users of the area – the proposal will result in reduced numbers of people using the woods and have a negative impact on tourism.
- Wildlife tour guides use this area and it is appreciated by its visitors for its beauty.
- The Roseisle Forest is used for a large variety of activities including, walking, cycling, orienteering, nature rambles, school activities, horse riding etc – all of these would be negatively impacted by the proposal.
- There are other ways to boost tourism in the area.
- It would be a blow to our ecotourism economy if development and disturbance in the forest were to put visitors off coming for quiet enjoyment of this place.
- The applicant quotes tourism as a reason for allowing this development. This area is popular with locals and visitors alike because it is unspoilt and not developed.
- Tourism is frequently, disingenuously quoted in such applications; the Beach Huts at Findhorn are a classic example. They have in fact had a negative effect; many of the visitors have asked how these huts obtained planning permission, because they thought they actually detracted from the natural beauty.
- A nearby riding school takes hundreds of tourists through this area who has stated they will be effected by the proposal as they use the path that runs through the site to get down to the beach.

**Comment (PO):**

It is speculation that the proposal negatively impact on tourism in the wider area and something that is not possible to measure. However given the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area it could attribute to fewer visitors to the area. It does have to be acknowledged that the Moray Woodlands Forest Strategy (MWFS) does state there is a place for woodland tourist accommodation where it satisfies other local planning policies. See the observations section below.

**Summary of comments from applicant:**

This is contrary to the support we have received from Moray Speyside Tourism, who stated that “the proposed development would be a unique addition to the local tourism industry”. In addition, one of the key aims of the Moray Woodland & Forestry Strategy with regards to tourism is to promote an attractive, accessible woodland environment in which to stay, play and relax. The Millie Bothy Fisher Huts would do just that. The strategy strongly states that the provision of high-quality, affordable, varied accommodation options in and around Moray’s woodlands is crucial to improving and developing tourism in Moray’s woodlands.

The first of the primary policies, Policy PP1 Sustainable Economic Growth, supports proposals for development that contribute towards delivery of the Moray Economic Strategy, sustainable economic growth and the transition of Moray towards a low carbon economy, provided that the quality of the environment is safeguarded, and other relevant policies are met. The Moray Economic Strategy is considered in paragraph 4.14 of the supporting planning statement (submitted July 2019), in the context of which it should in particular be noted that the proposed development would make a positive contribution to the tourist economy through the provision of low carbon and highly sustainable tourist accommodation. The Moray Speyside Tourism economic impact report for 2017 indicates that visitors using non serviced accommodation in the area generated £50.55 per day; applied to Millie Bothy that would generate £294,403 of additional spend in the area over a 26 week period. In doing that the development will initially create 2 new full time and 4 new part time jobs to manage and maintain the site, with the potential for employment numbers to increase over time. At the same time, all other relevant policies (including those on safeguarding the environment) are addressed in detail elsewhere in this statement, in light of which it is submitted that the proposed development complies fully with Policy PP1.

The final section of the Local Development Plan is implementation policies, in terms of which Policy IMP1 Developer Requirements requires all new development to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area, and sets out a number of criteria which require to be complied with. Many of these cover considerations that have already been addressed elsewhere in the supporting planning statement (submitted July 2019), in addition to which the following comments are made with regards to concerns raised about the extent to which the character of the proposed development would be in keeping with the area:

- impact on the character of the unspoilt dune area, with further information sought on any proposed ground works - it should be noted that there will be no development on the dunes themselves; and
- impact upon the secluded nature and tranquillity of the area as a result of the introduction of tourist cabins and the associated intensification of activity – given the significant number of visitors to Roseisle forest on a daily basis at present (in the order of 35,000 per annum (according to the Forestry Commission Scotland All Forests Visitor Monitoring report from 2006) and up to 1,000 people per day at peak times), including visitors who wild camp throughout the forest during the summer, the relatively small number of additional people who will come to stay in the huts is considered to be negligible (less than 2.5% of the total number of visitors to Roseisle).

The Moray Economic Strategy specifically identifies tourism as a key growth sector and sets out an aim to double tourism spend in Moray by 2025. In particular, the Strategy highlights the importance of cultural activity and the contribution that this can make to the



tourism sector. The proposed development, which would provide sustainable tourist accommodation associated with the restored Millie Bothy, would not only help achieve the Strategy's ambitious aim of doubling tourism spend by 2025 (by generating £294,403 of additional spend, as set out in paragraph 3.6 of the supporting planning statement (submitted July 2109)), but would do so in a way that specifically aligns with the Strategy in terms of providing visitors with an opportunity to engage with cultural activity on the doorstep of their accommodation, with this also serving to promote the culture of the wider Moray area as a whole.

The proposed development then clearly aligns with the Moray Tourism Strategy in creating 6 to 10 additional jobs and providing an attractive new tourist accommodation offering and should be supported accordingly.

### **Wildlife**

- The natural habitat of local wildlife will be adversely affected by the development and the access road that would be required to support it, including the disruption for drainage and services.
- Wildlife and habitats will be adversely affected by 24 hour occupation of the site. Roseisle Forest is of high diversity value, partly due to the extent of interrupted habitat. How will the proposal effect nocturnal creatures?
- The dunes support our endangered bumble bee population.
- The proposal will impact on many different types of wildlife including, red squirrels, bats which use the Bothy, various types of bird (including Nightjars, Swallows, House Martins, Sand Martins, Yellow Hammers, Crested Tits, Crossbills, Capercaillie), Pine Martins, Five Spot Burnet Moth, Cinnabar Moth, Dark Green Fritillary, High Brown Fritillary, Common Blue Butterfly and Speckled Wood butterfly.
- A further more detailed survey should be carried out at an appropriate time of year.
- The local herd of deer have almost disappeared from the area due to all the new houses spoiling natural wildlife corridors.
- Wildlife use the fresh water (Millie Burn) at the forest edge.
- The Millie Burn is a prime location for frog reproduction. Frog and tadpoles are sensitive to ecosystem disruption on both land and water; the proposal could add pollution to the burn which would harm them and birds.
- Newts breed in the Millie Burn.
- The introduction of vehicular emissions so close to the Millie Burn, is likely to affect the water eco system, and therefore all animals relying on it.
- There are pink flowered perennials called Centruy that grow in the area and are rare.
- Development already in the area is putting pressure on wildlife.

### **Comment (PO):**

Scottish Natural Heritage were consulted on the proposal and have no objections subject to conditions relating to the compliance with the mitigation measures contained within the Ecological Survey and Assessment and Bat Roost Assessment being complied with and a Construction and Habitat Management Survey being undertaken prior to the commencement of works if planning consent was to be granted. See observations section for further information.

Further advice was sought from local bird (Birds in Moray and Nairn) experts who confirmed that it very unlikely Nightjars and Capericallie would use the site.

## **Flooding**

- Proposal not sustainable in the long term as rising sea levels and sand erosion could render the site uninhabitable within a few decades.
- The sea is already eroding the dunes in this area.
- Object on the basis of flood risk, given the risks of climate change, do not think a proposal at sea level is a good idea.

## **Comments (PO):**

SEPA, Moray Flood Risk Management and Scottish Natural Heritage have all been a consulted on the proposal and have no objections. Of note, SEPA have stated that in the event of approval, the buildings would have to be positioned 6m above sea level. Please see observations and consultations for further information.

## **Drainage/Sewage**

- As there is no access for sewage drainage to the site it could only be effectively supported through septic tanks which is not a suitable means of dealing with waste so close to such a pristine beach.
- Reed bed sewage treatment would pose a risk of contamination to the beach and members of the public or their pets using the beach, and would require fencing off and constant monitoring. It is also not immune from storm damage.
- Proposal will cause intrusive installation of all required utilities, in particular waste water/sewage.
- There is a risk from either septic or chemical toilets and waste water being released into the environment from heavy rain water or overflow discharge.
- Sewage smells would become an issue on the site and surrounding area, particularly at times of increased rainfall and flooding.
- Unacceptable for 'grey' waste/water to be added into the natural environment.
- SEPA object.
- Both human waste and refuse produced will contaminate the surrounding Forest and waterways as there is no way to effectively manage its removal.
- The grey water estimation is small and inaccurate.
- How will the foul drainage be monitored to ensure it is not contaminating the surrounding area? Especially during storm surges, flooding or excessive rainfall.
- How will smells from the effluent be reduced?

## **Comments (PO):**

SEPA and Moray Flood Risk Management have been consulted on the proposal and have no objections to the proposal therefore satisfactory drainage is being provided.

It is speculative to assume that the composting toilets would generate an unacceptable odour nuisance in the locality.

Please see observation section for further information.

## **Summary of comments from applicant:**

Under Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) surface water from development should be dealt with in a sustainable manner with a neutral effect on the risk of flooding, avoiding pollution and promoting habitat enhancement and amenity. Fairhurst are preparing a Drainage Impact Assessment which will demonstrate that the development complies with the requirements of this Policy.

Policy EP10 Foul Drainage allows for a private system in small scale developments in the countryside. The proposed development includes compost toilets, as set out in the SUDS Statement submitted with the application, providing an environmentally friendly water-free solution in accordance with this policy.

### **Water**

- Concerned regarding the working of the desalination treatment. Little information provided.
- Scottish Water unable to confirm capacity for provision of water.
- Bringing bottled water to the site is an ecological tragedy.

### **Comment (PO):**

The Environmental Health Manager (Private Water) was consulted on the proposal and has no objections subject to a condition being attached to the planning consent regarding an adequate and wholesome water supply being provided, therefore adequate information has been provided. Scottish Water utilities are not being sought for the site.

The volume of plastic bottles being brought to the site is not a material planning consideration, and nor would the number of bottles used justify refusal of the proposal.

### **Litter**

- Increased litter, even with bins being provided there are no guarantees that they will be used. Litter effects the view and ecosystem i.e. animals and plants.
- There is already enough litter and mess on the beach which would be worsened by the proposal.

### **Comment (PO):**

The applicant has confirmed that litter bins will be provided and that litter and general waste will be removed from the site on a regular basis by service vehicles for recycling and disposal.

It is speculative to presume that guests of staff would choose to litter the location. It is more likely that the presence of site management would deter and discourage littering in the location of the development.

### **Summary of comments from applicant:**

As several objectors have stated the forest is used by many people. In particular this can amount to several hundred people visiting the forest daily at key periods such as weekends and summer in addition to large scale events such as the annual Easter Extravaganza organised by the Forestry Commission, the Roseisle Scottish Orienteering League held in October 2018 and the Pages of the Sea event held on Remembrance Sunday 2018.

We do not anticipate an additional 40 people staying at the Millie Bothy Fisher Huts will generate any increase in litter given the provision of bins within the huts and the fact that all waste and recycling generated by the development will be removed regularly. We are also willing to place some rubbish and recycling bins along the public path which crosses our site which we will empty regularly. As there is currently no provision at present for bins in this area of the forest, the development will actually help alleviate any problems of littering rather than adding to them.

## **Road Access**

- The size of development will require intrusive access roads which if not controlled will attract traffic that is not related to the holiday units in the area.
- Even more of the forest will be destroyed and the ecosystem polluted with the access road and car parking.
- Refuse lorries will be unable to reach the site therefore how will waste be disposed of.
- The proposal is not off grid as stated as it can be accessed by vehicles.
- The current Bothy owner has a key to access the site in a vehicle off an opening off the B9080 which the Forestry Commission allow. The public use this access to access the forest on foot and leave their car parked near the opening. The prospect of 10/20 cars on their way to the bothy parking in this same area is not well thought through.
- How are emergency vehicles supposed to reach the proposal site? If an ambulance is required a SAR helicopter would be required to be called.
- No one will leave their vehicle and walk to the accommodation with luggage etc.
- Access not suitable for sustained road access.

## **Comment (PO):**

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policy T2: Provision of Access.

The access track and car park proposed to be used are existing therefore no forestry is required to be removed in order to allow access to the site.

The applicant has confirmed that their service vehicles will remove all refuse from the site.

The applicant has confirmed that the emergency services will have the code to the locked gate on the B9080 access (access that the service vehicles etc will use) to enable them to be able to access the site if need be.

## **Summary of comments from applicant:**

While the Bothy has historically had vehicular access from the Kinloss-Burghead road (the B9089) to the beach from the forest there is a lockable gate at the entrance to the forest. This means that no visitors to the Bothy or the proposed huts will be permitted to drive through the forest, with vehicles instead to be left at Roseisle Forest picnic area and the site approached on foot or by bike, with the option of a golf buggy for less able visitors.

In terms of access, Policy T2 Provision of Access requires new development proposals to provide the highest levels of access, including connections for cyclists and pedestrians, access by public transport and safe entry and exit from the development by all road users. The application site is easily accessible by a regular bus service. Once at Roseisle, the proposed development has then been specifically designed to discourage visitors from using private cars during their stay, with no vehicular access provided to the site itself. That means that there is no conflict with existing forest users, including dogs and horses, and no road safety issues. In addition, there are excellent links to the existing network of paths through Roseisle Forest, including the Moray Coastal Trail core path. The application is therefore consistent with the requirements of this Policy.

Policy T5 Parking Standards states that proposals for development must conform with the Council's parking standards. It has been agreed with Forestry and Land Scotland that the

existing parking at Roseisle Forest picnic area, where there is ample parking available, can be used for visitors to the Bothy and the huts.

Vehicular access will then only be available for staff and suppliers, in addition to which there are already arrangements in place between the Forestry Commission and Emergency Services such that the Emergency Services have keys and any relevant codes to allow them to access the forest if required.

### **Traffic**

- Creating a vehicle access and the increase in traffic through the forest would pose a risk to the public, horses and dogs that use the area and be a continual nuisance for wildlife and the public.
- The proposal will introduce traffic into areas which are currently traffic free.
- Supply of gas and wood will require mid-sized vehicles to carry out this function.
- All current walking routes for the public on Roseisle forest have no traffic.
- Transport/parking arrangements have been underestimated and in reality the development will have a much bigger vehicular footprint than the planning documents suggest.
- Current forestry operations are minimal. This development would result in the constant use of core paths and other path and track networks by motorised vehicles.
- The track will become a busy road with the golf buggy.
- Never seen any traffic in the forest other than at the car park.

### **Comment (PO):**

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policy T2: Provision of Access. The recommendation reflects the impact that will be felt within the forest of a having the service vehicles and golf buggy travelling on previously quiet forestry roads.

The projected number of vehicles accessing the site is proportionate to the size of the development. If this was to be breached it would be investigated by the Council's Enforcement Officer.

### **Summary of comments from applicant:**

Once at Roseisle, the proposed development has then been specifically designed to discourage visitors from using private cars during their stay, with no vehicular access provided to the site itself. That means that there is no conflict with existing forest users, including dogs and horses, and no road safety issues. In addition, there are excellent links to the existing network of paths through Roseisle Forest, including the Moray Coastal Trail core path. The application is therefore consistent with the requirements of this Policy.

### **Parking**

- How will the users of the huts get to them and where will they park?
- Are chalet occupiers going to pay the daily parking fee to the Forestry Commission?
- The proposal would cause possibly up to twenty additional parked cars at Roseisle car park.
- Users of the proposal would most likely be parking their vehicle closer than the current car park.
- No detail over site security and safety, cars parked at the Roseisle car park are at risk of theft and vandalism.

**Comment (PO):**

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policy T5: Parking Standards.

A voucher scheme is intended to be used for guests using the carpark at Roseisle.

It is speculation that guests would be parking their vehicles closer and this permission from the site owner which would not be allowed.

The matter of security of cars parked at Roseisle carpark is a private matter and it is speculative to presume that vandalism would occur.

**Summary of comments from applicant:**

As per our supporting planning document, Millie Bothy Fisher Huts guests will park at the existing public visitor car park adjacent to the picnic area at Roseisle Forest and walk to the Fisher Huts. The addition of 10 cars (1 per cabin) within the large car park will be negligible.

**Road Safety**

- In the interest of pedestrian safety the access road should remain along the old railway line.
- Who is going to maintain the roads and paths?
- The planning statement gives numbers of the vehicles projected to use the paths. How is this going to be policed?
- Boy racers could fly through the access track at speed if the gate is left open.
- Woods have had problems with motorbikes and travellers which may increase if this goes ahead.

**Comment (PO):**

Transportation were consulted on the proposal and have no objections subject to conditions therefore the proposal complies with policies T2: Provision of Access and T5: Parking Standards.

The projected number of vehicles accessing the site is proportionate to the size of the development. If this was to be breached it would be investigated by the Council's Enforcement Officer.

Unauthorised users of the tracks is a private matter and where necessary for the police to address. It is speculative that the proposal could result in an increase of motorbikes and travellers using the area. Some of the points are speculative and may not occur.

**Summary of comments from applicant:**

As per our supporting planning document and above, guests will park at the Roseisle Forest visitor car park and then walk or cycle to the Fisher Huts in order to minimise traffic through the forest. Such arrangements are common at other holiday developments in rural areas and is also used at all Centre Parcs (forest based holiday parks). As per our ethos, we want guests to switch off during their stay and disconnect from all the stresses of modern life. This will begin as they arrive, leaving their car behind and enjoying a short walk or cycle through the forest to their hut.

It will be necessary for service vehicles to drive to the development entering the forest from the Burghead road but this will be kept to a minimum and has been agreed in principle with the Forestry Commission. It must be highlighted that the Millie Bothy has a vehicular right of access for commercial purposes that has been in existence since 1925 and we are free to exercise this, however, as we have been walking in the Roseisle Forest for several decades we understand and appreciate that every care needs to be taken to ensure the safety of all forest users. It is also important to note that Roseisle Forest is a working forest and its tracks are already used by Forestry Commission vehicles for harvesting/maintenance as well as others (people collecting firewood, hunters) so it is not unusual to see vehicles within the forest and to our knowledge there has been no issues related to this. All visitors to the forest whether they are pedestrians, cyclists, horse riders etc. should appreciate this. As per the Roseisle Land Management Plan 2015-24 access throughout the forest for management and harvesting is good and fit for purpose, with a good road network and good public road links.

### **Inadequate Plans**

- No detail on how the CHPU will be run and the noise it may generate.
- How is the CHPU going to be backed up, no information regarding this has been submitted.
- Will a staff member be residing on site?
- The development looks as if it falls within land owned by the Scottish Forestry.
- The developer states that in their application the public rights to access would not be affected but since the bulk of the surrounding land is owned by Scottish Forestry this could be inaccurate.
- Where is treatment plant to be located?
- How is water going to be brought to site – where is the pipe going to lie?
- No indication is provided of how storage and handling of refuse will be managed to prevent litter spreading from the site into the surrounding area.

### **Comment (PO):**

Environmental Health were consulted on the proposal and have no objections therefore the CHPU complies with their requirements. The design of the CHPU is not as specified and is anticipated to be located close to the plant room building next to the bin store and desalination plant. If the application were to be approved, details of the CHPU would require to be provided, although given the scale of the development, it is not anticipated that this unit would be a substantive piece of plant.

The applicant has confirmed that a staff member will be present on site at all times.

The applicant is creating an additional path along the site northern boundary for public use and the existing paths will not be for the exclusive use of guests of the self-catering units.

The treatment plant is located behind the huts on the eastern side of the site.

Please see observations section which details how water will be brought to the site. The pipe is going to lie from the service shed following the line of the northern Burghead beach path.

The applicant has confirmed that litter bins will be provided and that litter and general waste will be removed from the site on a regular basis by service vehicles for recycling and disposal.

**Activity at unsociable hours/behaviour**

- With people residing in the area much more disturbance will be caused to the woods, perhaps through the night.
- Fires will be lit with wood sourced from the forest causing more destruction.

**Comments (PO):**

It is agreed that the proposal will cause increased activity in the area through the day and evenings.

Where wood is sourced from for fires on the site is not a material planning consideration and it is speculative to presume that individuals cause destruction.

**Summary of comments from applicant:**

We will take every step to mitigate Activity of unsociable hours/behaviours. There will be a member of staff present at all times at the development and rules will be in place to ensure that guests do not create any disturbances. There will be a quiet time enforced from 10pm to 8am. Furthermore, guests will be for a large part confined to a very small part of a very large forest.

**Other**

- Why should local people have their precious amenity destroyed by business interests?
- It is a hopeless waste of forest for little more than capital gain.
- An act of environmental vandalism.
- Deforestation should be a crime here.
- The reason given for the restoration of the Bothy is already well served by the ice house and museum in Findhorn.
- No management plan for Giant Hogweed which is in the area especially for the second pedestrian bridge to the mouth of the burn.
- Local Business' would be detrimentally impacted. The scenic beauty of the area is a selling point.
- All this land is public land and should not be given over to private ownership.
- Many people use the forest and Bothy area to appreciate the benefits of being in the forest, it gives access to a peaceful natural environment, there are health benefits of an unpolluted area that encourages relaxation and exercise, biodiversity in the local ecosystem and environmental protection via erosion protection – all these benefits would be illuminated by this development.
- The housing is not for full time use. We need less holiday homes and more affordable housing (in the right area).
- Access will likely become restricted with the site being fenced off like a prison camp.
- Ample facilities in the present designated camping and parking area for tents, campervans etc. without the need for permanent structures like 'Glamping Huts' that would spoil the unrestricted access we enjoy.
- The proposal states that it will provide accessibility for visitors who may not ordinarily be able to access coastal locations however they are obviously not aware of the access point through the car park to the beach built specifically for wheelchairs and infirm walkers which leads to a safe and level decked area, encouraging access for all already.
- Object given the wide variety of accommodation at either end of the beach / forest and further afield.



- The term portable is a way to get around planning for the erection of buildings that will essentially be permanent.
- The proposal would detract from local holiday lets and caravan sites.
- The proposal has set an atmosphere of dread in the community.
- Wood burning stoves if proposed for the huts produce more CO2 into the air which can take 100's of years to be reabsorbed into the trees. The proposal may involve removing these vital trees.
- Beach was recently used for Danny Boyle's recent remembrance celebration because of its beauty.
- There has been a huge amount of deforestation in the past 2 years in the Highlands.
- Hopeman beach is an example of what can happen to a fragile area if such development was allowed to go ahead.
- Will lights be left on overnight? This could cause light pollution and have a negative effect on wildlife.
- Outdoor barbeques will raise the fire risk.
- Will the reed beds pose a danger to children and possibly dogs?
- Application has not been advertised legally correctly?
- People live in the area for the empty beaches, wildlife and vast open spaces.
- All small benefits to the community would be outweighed by the effects of running this fabulous resource.
- Proposal is for commercial purposes not heritage.
- Suitable sites elsewhere in areas of Burghead and Moray.
- The perceived demand for glamping can be accommodated locally including the extension to the Burghead caravan park which is already approved in the Moray Development Plan.
- The whole area will be flattened to allow for development to take place.
- The site is over 0.5 hectare in size which meets the criteria for an EIA.
- There were never fisher huts on the site – there is no relevance.
- How are Forest users going to be given privacy from the huts?
- The site may be used by camper vans.
- Moray Council ignored the objections to the huts at Findhorn – these now sit mainly unsold bar 2 or 3.
- The Bothy is category C listed.
- The Millie Burn is sometimes used for farmer's irrigation and can be reduced to a trickle. Fire services therefore would not have access to water.
- The Bothy should be left as it is as testament to Moray fishing like Rosal to the north.
- There should be a conservation order on the site.
- Would not like to see the established network of paths disappear.
- Illegal dog fighting could take place as no one can see what is happening.
- Although a working forest, Forestry Scotland have worked hard to keep the unspoilt nature of this area.
- There are areas better suited to this type of development such as back of the woods near the farmland such as on the Burghead side of the woods rather than slap bang in the middle of the beach.
- It will split the Forest in two.
- Is not there enough sporadic housing all over Moray?
- How long before it gets turned into something like Central Parcs.
- Holiday homes are not required in the area, many currently run at low occupancy.
- Could be a disaster given the dry summer.
- Access to the beach would be restricted.

- Rare to find 7 miles of unspoilt beach.
- The success of the nearby picnic area opening access to the bay for public enjoyment is already showing problems of erosion.
- It will put pressure on existing amenities.
- Impact on safety of lone women walkers.
- Occupants would not look after site as well as the locals currently do.
- Moray is being over developed and the woodland is being eroded away.
- Too many stretches of coastline are destroyed, invaded by ribbon development.
- There are plenty art galleries in the surrounding area.
- Needs to be preserved - it is a jewel in the crown of Moray.
- An information board about the history of the Bothy is the only development that would be appropriate.
- Planning permission was sought in November, quite a fortunate time for the applicant when most tourists have been and gone and will not be able to add their objection to this planning notice.
- The proposal will dissuade people from using the area for their leisure.
- Re-routing the Moray Coastal Path inland around the boundary if the site fails to comply with the 'Right to Roam' legislation by preventing public access to the part of the shoreline included in the proposed development and it seeks to create an area of shoreline for the private and exclusive use of those paying to stay there. There is no reason for the redirection of the footpath other than exclusion of the public from this part of the shoreline. In turn it creates an unsafe legal precedent.

**Comment (PO):**

The current application must be assessed on its individual merits and under the current Local Development Plan. A lot of the above issues are speculative and are not material in the determination of the current application.

It is agreed that the proposal would negatively impact on the environment and have an adverse impact on the amenity of the area.

The applicant is not required to provide a management plan for giant hogweed however this issue can be addressed through the Construction and Habitat Management Plan that would be required by condition if the proposal was to be permitted.

The housing situation in Moray is a separate issue and is not relevant to this planning application.

If the applicant did wish to fence off the site, planning permission would be required. If a planning application was submitted for this it would be assessed under its own merits and would need to comply with the Moray Local Development Plan 2015.

The correct procedures have been followed in terms of the application being advertised. An EIA is not required for the proposal.

The Bothy is not a Listed building.

The issue of water being required for the emergency services would be covered by a building warrant.

There are several speculative representations about illegal or inappropriate conduct at the

site for which little material weight is attached. Notwithstanding the recommendation attached to this report, the scale of the impact suggested by many of the objections is disproportionate and unreasonable in comparison to the scale of small tourist accommodation proposal. The level of activity generated by the bothy renovation and 8 small tourist accommodation units need to be assessed proportionately.

#### **Summary of comments from applicant:**

Moray Council Access Manager, Ian Douglas, has approved our plans therefore we cannot envisage that the planning department would have any issues.

It has been incorrectly stated by some objectors that the development will restrict their access through the forest and to the beach. This is completely incorrect. As per plans submitted users will still be able to access the beach from the forest, crossing the Millie Bothy site. In fact, we will be upgrading the existing paths as well as providing an additional route to the beach from the eastern end of the site. As already stated, we have been visiting this area for decades and have no wish to prevent others from accessing the beach or forest through the Millie Bothy site.

It should be noted that the proposed development would in fact enhance the experience of users of the forest through upgrading of the existing path that connects the forest to the shore, with the development located such that existing trees would screen this from users of the wood until they came into the clearing, with the refurbished bothy there to discover and add interest to a wide range of visitors. Likewise, it should be noted that the proposed development is in keeping with the most recent LCA for the area as set out in paragraphs 3.21 to 3.23 (the 1998 assessment referred to in the Development Plan Team's response having been superseded by this, as set out above), and so also safeguards forest users' recreational experience in this regard.

Policy T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks aims to promote the improvement of sustainable and active travel. The application includes improvements to be made to the existing path across the site which connects the beach and forest (as agreed with the Moray Council's Access Manager), with other paths safeguarded and promoted to encourage walking and cycling in the area, hence ensuring compliance with Policy T7.

Matters which are not material to the determination of the application, include:

- land ownership and legal issues;
- lack of detail in the application;
- that there is no need for additional holiday lets;
- the development is purely for capital gain and driven by greed;
- that the development caters for the elite/privileged few; and
- there are other more suitable areas where the development could be located
- potential impact during construction.

#### **Support**

- There is a growing market for this type of proposal and it would be a unique addition to the local tourism industry.
- Will bring people to the area and create jobs in turn growing the local economy, it will benefit the entire community.
- Improvement to the local area is welcome, it will help local businesses.
- This is a great tourism opportunity for the Moray Area and Scotland.  
Additional/alternative option to expanding existing caravan sites across the coast.

- The proposal is closely in alignment with the recently published Moray Woodland Strategy. The strategy identifies potential locations including Roseisle for schemes such as this proposal.
- In line with Scottish Government policy.
- The huts are from the fishing heritage that would showcase black fishermen huts.
- The proposal would not interfere with sight lines or view out to the coast, it cannot be seen from the beach, is not within an area of special designation, will not require the construction of additional roadways or major infrastructure.
- The forest is very accessible with car parking near to the site and there is potential to make best use of this by building 'accessibility' into the development so people who cannot normally reach these types of locations can.
- Believe any resolved issues can be overcome.
- Support the restoration of the Bothy as it means a lot to the fishing families of this area and its vast history as a salmon bothy. It would be great to see such a classic building restored.
- It would be great to shine a light on the fishing heritage of Moray.
- Works would be done sympathetically to maintain originality and beauty that exists.
- Upgrades to paths would be of great benefit to those who walk their dogs, ride horses and bikes through the forest.
- It would put Moray on the map.

#### **Summary of comments from applicant:**

The development proposed in terms of this application is supported by the Development Plan and relevant material considerations, in particular in terms of encouraging visitors to enjoy the area with the net economic benefit that this will bring, while doing so in a way that respects and maintains the landscape and natural heritage value of the site and surrounding area. Accordingly, the application should be approved.

#### **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 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 the Strategic Planning and Delivery Manager.

Beyond the various supporting documents submitted with the application and referred to in the Proposals Section above the applicant's also submitted a further Supplementary Planning Statement (July 2019) seeking to demonstrate how the proposal fulfils the requirements of the Local Development Plan and other material considerations, where appropriate, responding to points raised in representations from consultees and members of the public. This has been taken into consideration and is available online.

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

#### **Siting and Design (IMP1, PP3 and Moray and Nairn Landscape Character Assessment 1998)**

Policy IMP1 Developer Requirements requires new development proposals to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area and to be comply with set criterion (detailed within policy). These include amongst others the requirement for new development to be of a scale and character appropriate to its setting and for development to integrate into the landscape. Policy PP3 requires the highest standards of design.

The Moray and Nairn Landscape Character Assessment 1998 (MNLCA) forms part of the National Programme of Landscape Character Assessment. The National Programme aims to improve knowledge and understanding of the contribution that landscape makes to the natural heritage of Scotland, it considered the likely pressures and opportunities for change in the landscape, assesses the sensitivity of the landscape to change and includes guidelines indicating how landscape character may be conserved, enhanced or restricted as appropriate. It is noted that the 1998 MNLCA has been replaced this year by Scottish Natural Heritage's Landscape Character Type map and associated Landscape Character Type Descriptions. As the landscape character in this area being coastal forest has remained unchanged the assessment of the proposals against these above policies remains consistent.

The proposal would be set back from the beach and largely screened by vegetated sand dunes when viewed from beach. However this unspoilt and quiet area is well used by the public and horse riders as evidenced by the network of well used paths across the site which provide a direct access onto the beach and circular route back to the Scottish Forestry car park. The introduction of 8 self-catering huts and the associated intensification of activity in this location would have a negative impact upon the secluded nature and tranquillity of this area.

Existing built infrastructure along the coast and within the immediate hinterland is minimal and principally comprises WWII defences which are of cultural heritage significance. While some built development is associated with the Forestry Commission car park to the south-west of the site, this is low-key comprising a small timber toilet block. The proposed development would introduce more substantial buildings and associated infrastructure sited close to existing well-used footpaths. At the local level, this development would adversely affect views, diminishing the sense of naturalness and seclusion that is associated with this coast.

The Millie Burn presently provides a contrast with the forest, with open species-rich grassland and scrub around the burn creating an intimately-scaled glade surrounded by

mature pine trees. The proposal would diminish this contrast, largely filling this open space and significantly detracting from the sense of naturalness experienced by walkers. Roseisle Forest and Beach is easily accessible by car yet offers an experience of seclusion and naturalness to the many people who visit the area. The proposed development would adversely affect appreciation of these qualities therefore the character of it is not appropriate for its setting.

In terms of policy regarding siting and design the proposal fails to meet the requirements of policies IMP1 and PP3 and the associated guidance.

### **Rural Business Proposal / Tourist Accommodation (ED7 and ED8)**

Policies ED7 and ED8 both set out a number of criteria that must be met in order for a development to be permitted. This includes a locational justification, account being taken of environmental considerations including the impact on natural and built heritage designations, with appropriate protection for the natural environment; careful control over siting, design, landscape and visual impact.

Supporting economic development and to sustain employment in rural areas, by granting approval to new business proposals that fit into the environment and can be adequately serviced is a Council priority. One of Moray's main attractions is its unspoilt and undeveloped environment, with heritage, scenery, and outdoor activities being key features. By supporting this asset and maximising economic and employment opportunities, care must be taken to ensure that the assets which create this attraction are not damaged by inappropriate or unsympathetic development.

The supporting statements from Moray Speyside Tourism and Visit Scotland note that it is accepted that there is scope for a tourism proposal of this nature at Roseisle. Both Moray Speyside Tourism and Visit Scotland agree that there is an increasing market for this type of development in the area. Visit Scotland are encouraged to see investment in new experiences for visitors at a time when tourism is a key sector for growth in Moray Speyside and state that this development is exactly the kind of high quality asset advocated within the national tourism strategy Tourism Scotland 2020. Visit Scotland added that they are committed to providing any industry support required throughout the development process, be it through our Quality Assurance scheme, marketing support, data and trends analysis, or strategic support. Moray Speyside Tourism highlight that the proposal is closely in alignment with the recently published Moray Woodland Strategy in that the strategy highlights the need to support local providers to develop schemes such as this and identifies Roseisle as one of the potential locations for this. Moray Speyside Tourism add that potential could exist to make best use of this by building 'accessibility' into the development, to attract visitors who may not ordinarily be able to reach such beautiful locations.

However, given the unspoilt character, secluded nature and tranquil qualities of this particular site and the fact it is in a woodland clearing and not contained within woodland the proposal is considered not to be in an appropriate location.

Despite a locational justification being provided the proposals are considered to fail to meet the further criteria set out within Policy ED7 and ED8 as they fail to safeguard or protect the natural environment due to the adverse landscape and visual impact associated with the development. The recreational enjoyment and character of the woodlands would be adversely impacted by introducing this type of development to this

site, especially given there would be a 24 hour presence of activity. Therefore the criteria in policies ED7 and ED8 have failed to be met.

**Coastal Protection Zone (CPZ) and Areas of Great Landscape Value (AGLV) and impacts on the wider environment (E7, E8 and Moray and Nairn Landscape Character Assessment)**

The site sits adjacent to both a Coastal Protection Zone (CPZ) and an Area of Great Landscape Value (AGLV). The aim of these policies is to protect strategically important landscapes from inappropriate development and protect and enhance the Moray Coast for its landscape, nature conservation, recreation, and tourism benefits.

Despite the site being located out with the CPZ, consideration must be given to policy E8 where it states that proposals must not prejudice the objectives of the CPZ or adversely affect the landscape importance of the area. Notwithstanding the policy issues raised under policies PP3, ED7, ED8 and IMP1 the location of the proposal within a forest where views of the development are acknowledged to be restricted to the immediate locality do not depart from the wider landscape protection afforded by the adjoining CPZ designation.

The AGLV policy also takes account of impacts on the wider landscape and states that proposals must be in general accordance with the Moray and Nairn Landscape Character Assessment 1998. Given the age of this assessment, and the presence of subsequent updated SNH guidance, limited weight is attached to the 1998 guide, albeit the wooded coastal landscape in this area will not have altered much over the proceeding decades, and is still classified in the new guidance as coastal forest.

The proposed development lies within the Soft Coast landscape character type as defined in the 1998 Moray Landscape Character Assessment. Within the assessment it is identified that tourism/recreational development is not easily accommodated within this Landscape Character Area and advises such development should be located within service corridors, urban settlements or within the adjoining Coastal Forest Landscape Character Area to protect and retain the natural landscape character and avoid impacts on the soft coastal shore landscape. The Coastal Forest Landscape Character Area further states that any new facilities should be located within the forest, where they are screened from adjoining this Landscape Character Area to conserve the remote character of forests and to continue to limit vehicular access to the sensitive Soft Coastal Shore Character Area, so as not to diminish the experience of “discovery” which is commonly felt when walking through the forest to reach the coast. New recreational facilities should also be carefully planned and sited to retain the secluded feel of “natural forest” such that buildings and associated facilities are located away from these areas. On this basis the proposed development is not in accordance with the guidance set out in the Moray and Nairn Landscape Character Assessment and would have failed to comply with Policy E7 Areas of Great Landscape Value had the site not been amended to remove its presence from within the AGLV. On similar grounds to the assessment of the CPZ above, where the visual extent of the proposed development would be very limited from the adjoining AGLV due to the woodland setting, it is not considered not to depart from the policy.

As the site has been modified to remove its presence from within the CPZ and AGLV, the reference to landscape character assessments under policy E7 is less applicable, and no longer constitutes a departure. Other policies of the Local Development Plan still have a role in protecting landscape character outwith the CPZ and AGLV designations.

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

Policy T2: Provision of Access requires that 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. Policy T5: parking standards states that proposals for development must conform with the Council's current policy on parking standards.

The applicant has indicated that parking space for users of the site will be made available within the existing Roseisle Forest Car Park under an agreement with Forestry Enterprise Scotland (FES), rather than providing the required number of spaces within the site itself where there will no vehicle access for visitors. Transportation considers that there is ample space within the Roseisle Forest parking area to accommodate for holiday let users and that ongoing management of this is a matter for the applicant and FES. The site is remote from the public road and therefore no parking issues are envisaged. Parking for the office building is to be provided within the site.

It is proposed to take vehicular access from an existing forestry access off the B9089 Kinloss to Burghead Road. Information has been provided in the supporting statement demonstrating a low number of daily vehicle trips generated by the site at this access, which is already utilised by recreational users of the Forest. Transportation therefore considers this to be an appropriate arrangement subject to a degree of resurfacing where the access track meets the public road to ensure no damage to the edge of the road, particularly during construction.

Transportation has no objections subject to conditions and informatives being attached to the consent if it were to be permitted. Proof of the agreement for parking with the FES would need to be provided prior to development.

### **European Protected Species (E3)**

Nationally protected species are defined in the Wildlife and Countryside Act 1981. Under policy E3 any development proposals that would have an adverse effect on a European Protected Species will not be approved.

An Ecological Survey and Assessment Report (dated October 2018) was submitted with the proposal. The purpose of the survey and assessment were to determine any potential impacts from the development on designated sites, natural habitats, protected mammals and birds on and around the site and to propose mitigation where required.

#### **Bats**

Regulations 39 and 43 of the Habitats Regulations provide full protection for certain animals and plant species. All species of bats in the UK are European Protected Species (EPS).

The Ecological Survey and Assessment report acknowledged that survey work was undertaken out with bat survey season and indicated that the inner sections of the ruins of Millie Bothy offer numerous potential roost features for bats. Scottish National Heritage (SNH) recommended that a follow-up survey was undertaken at an appropriate time of year.

A Bat Roost Assessment was submitted to the Council in July 2019. It indicates that the Millie Bothy is used as a bat roost - a single pipistrelle bat was found within the stonework during a roost assessment undertaken on 23 April 2019. Bat activity surveys carried out



23 May 2019 and 28 June 2019 confirmed bat activity in the area (common and soprano pipistrelles). The report indicates that there are a number of cavities within the bothy structure – these are not suitable for hibernating bats but may be used by a small number of non-breeding bats (including as a transition roost).

The bat found roosting in the Millie Bothy was identified as a pipistrelle though the species could not be confirmed, with common and soprano pipistrelles being active in the area. Both common and soprano pipistrelle bats are not uncommon species and the loss of roosts used by a small number of either species is unlikely to be detrimental to the maintenance of these species at a favourable conservation status in their natural range.

Given that the bothy is used as a bat roost, a licence from SNH will be required prior to any works commencing (in addition to any planning permission). The report gives an outline of relevant proposed mitigation measures for bats (section 6, page 5), noting that further detail will be required to accompany any licence application. SNH agree that these are all appropriate and that, subject to a sufficient level of detail being provided to satisfy the requirements of a licence application to SNH, a licence is likely to be granted. However, SNH recommend that, where minded to approve the development, the Council should first satisfy itself that the licensing tests are likely to be met: **Appendix 2** concludes that the tests would be satisfied. Alternatively, the work could be carried out under a Bat Low Impact (BLIMP) licence with an ecologist holding a current BLIMP licence, subject to all conditions being satisfied/adhered to. A condition regarding this would be attached to the planning consent (if it were to be permitted).

#### Bottlenose Dolphins

Under the Habitats Regulations, all competent authorities must consider whether any plan or project will have a 'likely significant effect' on a Natura Site. If this is the case an 'appropriate assessment' must be carried out.

The proposal site lies adjacent to Burghead Bay which forms part of the Moray Firth Special Area of Conservation (SAC) and the Moray Firth proposed Special Protection Area.

The status of SAC means the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, the Moray Council is required to consider the effect of the proposal on this site before the proposal can be consented (commonly known as Habitats Regulations Appraisal).

A Habitats Regulations Appraisal was undertaken by the Council – see **Appendix 3**.

There is potential for the proposal to impact on bottlenose dolphins from the intended sea water extraction, this could happen from noise and vibration if they happen to be passing the area at high tide.

To mitigate any disturbance the operatives will search the area using visual observation and binoculars for the presence of dolphins before and during abstraction operations. If dolphins are spotted, the operations will halt and wait until the dolphins have passed. These mitigation measures will avoid any impacts on the SAC or SSSI with habitats as qualifying interests by ensuring that no dolphins are disturbed as a result of the proposal.

Burghhead bay is used by other species of cetacean (all species of cetaceans are EPS). SNH have advised that measures proposed to protect bottlenose dolphins are suitable to avoid any disturbance to all species of cetaceans.

#### Otters

The Ecological Survey and Assessment report confirms that the area is used by otters.

The proposed development will increase human activity in the area, especially at hours where there is currently no or very little human presence i.e. overnight. Given that otters tend to be active at dawn and dusk, the development has the potential to disturb otters by way of human presence at a time when there is currently none. Further information was sought from the applicant in the form of an appraisal of impact on the otters as a result of increased human activity.

An appraisal was received which detailed measures to reduce any such impact of the proposal on otters. SNH agreed that they were appropriate and recommended that these be implemented in full in addition to the measures listed in the Ecological Survey and Assessment Report (page 33 along with the general mitigation measures for mammals on page 34). This would be covered by a condition attached to the planning consent (if permitted).

#### Birds

The Moray Firth proposed Special Protection Area (pSPA) has been proposed under the EC Directive 79/409/EEC on the Conservation of Wild Birds (the "Birds Directive") for populations of breeding shag and non-breeding common scoter, eider, goldeneye, great northern diver, long-tailed duck, red breasted merganser, red-throated diver, scaup, shag, Slavonian grebe and velvet scoter. The status of the pSPA means that the requirements of the Habitats Regulations Apply.

SNH have advised that an appropriate assessment is not required due to the proposal being unlikely to have a significant effect on the pSPA bird species.

A condition will be attached to the consent (if permitted) for a Construction and Habitat Management Plan to be developed by the applicant prior to the commencement of works; this will be required to be approved in writing by the Council, as Planning Authority in consultation with SNH. This will cover the protection of birds amongst others species and plants.

#### Butterflies

Representations raised the issue that rare butterflies and moths use the site and surrounding areas. Therefore the Construction and Habitat Management will be required to address protection measures for these butterflies and moths.

Measures required in order for them to be protected include:

- Identifying any areas of the food plants.
- Siting development on areas that do not include the food plants or consider translocation of turves before development commences.
- Avoiding works in areas where the food plants are present at times when the life stages of insects are vulnerable – eggs (Mid May – Mid July), caterpillars (August – April) and chrysalis (April – May) – or consider searches to re-locate these stages to near-by food plant areas (adults can fly away and so are not so vulnerable).

## Plants

A representation raised the issue that some plants (*Astragalus danicus*, *Centaureum erythraea*, *Gentianella amarella*, *Potamogeton filiformis* and *Valerianella locusta*) that are rare to Moray and/or are on the Scottish Biodiversity List within the proposal site.

The applicant provided information that showed that these plants are on areas of dune land that are not to be developed. As a result of this SNH advised a botanical survey is not required but the Construction and Management Plan should take account of these plants to further enhance the suitability of habitat for them.

Subject to the above mitigation and methodologies, the proposal is compliant with the requirements of policy E3.

## **Woodland (ER2 and E4)**

Policy E4 Trees and Development and ER2 Development in Woodlands both seek to protect, compensate for the loss of woodland or collectively seek to protect woodlands from inappropriate development. A small section in the north eastern area of the site is within the National Forest Inventory (NFI).

Following consultation with Scottish Forestry they advised that there was insufficient detail regarding the possible tree removal, protection throughout the construction phase or prospective compensatory planting and were unable to comment fully.

The applicant has confirmed that no trees are required to be felled for the proposal. A condition would need to be attached to the consent (if permitted) to ensure that all existing trees on the site are retained and protected during the construction phase. Given the above it has been considered unnecessary to ask the applicant for compensatory planting to be provided.

## **Water (EP4)**

The aim of policy EP4 is to ensure safe water supplies where a private source is to be used.

Water to the site will be provided by a desalination unit which will extract a maximum of 10,000 litres of sea water per week using a non-fixed commercial water hose (25-50mm in diameter). It is intended to lay the hose from the site to the sea at high tide once per week for a period of 2-3 hours.

Water abstraction is regulated by SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) (as amended). In specific regard to SEPAs regulatory remit for abstraction, coastal and transitional water abstractions <10m<sup>3</sup>/day fall under General Binding Rule (GBR) 2. For activities that fall under GBRs the applicant/operator/owner is not required to apply for formal authorisation from SEPA but must comply with the requirements of the GBR. So, provided the abstraction is <10m<sup>3</sup>/day as has been stated, it would fall under GBRs. For abstractions greater than 10m<sup>3</sup>/per day a registration would be required.

Environmental Health Manager (Private Water Supplies) has no objections to the proposal subject to conditions being attached to the consent (if permitted) that ensure a wholesome and adequate water supply is provided.

Marine Scotland has no objections to the proposal. The proposal is therefore considered to be compliant with policy EP4.

### **Drainage and Development within Flood Risk Areas (EP5 and EP7)**

Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) stipulates that 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 aim of policy EP7: Control of Development within Flood Risk Areas is to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. It also states that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere.

Moray Flood Risk Management (MFRM) and the Scottish Environment Protection Agency (SEPA) were consulted on the proposal due to the site lying being partially within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of fluvial flooding from the Millie Burn.

According to SEPAs Land Use Vulnerability Guidance the proposed art gallery/office would be considered as a “least vulnerable” land use, therefore it is required to be demonstrated that the location of the building is out with areas at medium to high risk of flooding (1 in 200 year flood extent). The self-catering huts would be classed as a “most vulnerable” land use, therefore they require to be located out with areas at medium to high risk of flooding (1 in 200 year flood extent), with mitigation provided to the level of the 1 in 1000 year flood event for example through ground levels or finished floor levels.

Both MFRM and SEPA objected to the proposal on the grounds of insufficient information with regards to flooding and drainage.

MFRM required a Flood Risk Assessment (FRA) and a Drainage Impact Assessment (DIA) to be submitted. SEPA required a FRA to be submitted.

Revised plans were submitted that reduced the number of self-catering units on the site to 8, site sections, a topographic survey and a “report for SEPA” were also submitted.

### **Flooding**

With regards to the conversion of the Bothy to an art gallery/office the ground levels at the bothy are in the region of 5.5m and are in excess of 6m to the west of the bothy. The topographic survey and cross sections provided indicate that the ground is undulating in the area and that the ground levels between the bothy and the Millie Burn rise to be higher than that of the opposite bank. As such, any out-of-bank flow on the side of the site is limited by the height of the opposite bank which would over top and drain water to the south before reaching a depth which would impact the bothy. Taking into account that this is a conversion to a “least vulnerable” land use, SEPA recommend that finished floor levels should have a minimum of 500mm freeboard above ground levels and that emergency pedestrian access is made available to connect the building to the higher ground to the west.

The ground level at the huts ranges between 6.09m and 6.23m with finished floor levels ranging between 6.24m and 6.68m. The store building has a proposed ground level of 6m

and a finished floor level of 6.15m. As such, the holiday units are unlikely to be at risk of flooding from the Millie Burn.

SEPA removed their objection to the proposal subject to a condition being attached to the consent (if permitted) to ensure that all development (with the exception of the conversion of the Bothy to an art gallery/office) is on land at 6m or above in relation to the topographic survey provided.

MFRM stated that based off the information provided in the SEPA response it is understood that the development is being constructed in such a way that it is out-with the flood risk levels in the area, as all building levels shall be above 6m above sea level. As such MFRM removed the need for a Flood Risk Assessment as they were satisfied that the applicant has met the requirements set out in the Moray Council Flood Risk and Drainage Impact Supplementary Guidance with regards to flooding. Their objection to the proposal in terms of flooding is therefore removed. The criterion in the policies regarding flooding has been met.

Scotland's National Coastal Change Assessment (NCCA) identifies a pocket of erosion directly adjacent to the proposed development site. Scottish Natural Heritage (SNH) has recommended that new development be located away from shorelines susceptible to erosion and to avoid development of unprotected shorelines where development cannot be adequately safeguarded over the lifetime of the development without the construction of coastal defences.

As part of the consultation response received from SNH comments were raised in relation to coastal erosion. Following discussions with SNH and Moray Flood Risk Management regarding this it was agreed that if the applicant confirmed that coastal protection measures were not required as part of this development proposal with regard to the Climate Change (Scotland) Act 2009, the Council would not be seeking any further information i.e. studies in relation to this matter. The applicant confirmed that no coastal protection measures are necessary as part of this development. The applicant has been made aware that there is a possibility that coastal erosion could at some point become more evident adjacent to the proposal site and if it were to occur during the life span of the development (should it be approved at any point following consideration), the Council would not provide any form of coastal protection for the site as the policy is one of managed retreat.

#### Drainage

MFRM required a DIA to be submitted to demonstrate that the post-development runoff rate does not exceed the pre-development runoff rate or increase flood risk through discharge to a receiving watercourse. The DIA should demonstrate that the surface water drainage system adopts Sustainable urban Drainage System (SuDS) principles and specifications in accordance with current legislation and guidelines, such as CIRIA C697 – The SuDS Manual. All drainage systems must be designed to a 1:30 year return period, including climate change, without surcharging. Where infiltration is proposed, infiltration tests are to be completed at the location of the rainwater soakaway as well as calculations and design of the soakaway to be provided. Infiltration tests should be undertaken in accordance with Building Research Establishment (BRE) Digest 365.

A DIA was submitted and reviewed by MFRM, who in turn removed their objection to the proposal.

**Conclusion and Recommendation**

As detailed above the proposal fails to comply with policies IMP1, PP3, ED7 and ED8 of the Moray Local Development Plan 2015. The reasons for this include the self-catering huts and the associated intensification of activity having a detrimental impact on the secluded nature and tranquillity of the area making development inappropriate in this location. The proposal would significantly alter the character of this unspoilt dune area resulting in significant visual intrusion to the detriment of the character and appearance of the area of coastline.

It is appreciated that the proposal does comply with the other policies of the Moray Local Development Plan 2015 as detailed above and the applicant has proposed various means of mitigation and management for their site, to preserve environmental and amenity concerns.

Overall the proposal is unacceptable and does not accord with all the required policies of the Moray Local Development Plan 2015. It is recommended that the application is refused.

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## **APPENDIX 1**

### **POLICY**

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

##### **Primary Policy PP1: Sustainable Economic Growth**

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

##### **Primary Policy PP2: Climate Change**

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sqm 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 ED8: Tourism Facilities and Accommodation**

The Council will generally support proposals which contribute towards Moray's role as a tourist area. All proposals will require to

- a) Be compatible with policies to protect and enhance the built and natural environment
- b) Provide adequate infrastructure arrangements (e.g. roads, parking, water, drainage), and
- c) Demonstrate a locational need for a specific site.

Developments built as holiday accommodation (e.g. caravans or chalets) should be retained for that purpose and not become permanent residences. Conditions will be applied to planning consents to control this aspect.

For caravans or chalets in countryside areas, visual impact and access arrangements will be important considerations. Proposals must demonstrate what landscaping measures will be put in place to assist in integrating the site into its rural setting, in addition to providing for on-site amenity within the layout. Rigid, formal arrangements should be avoided, with stances/pitches separated to provide discrete, screened locations.

Provision within sites for touring caravans and tents will be encouraged.



## **Policy E4: Trees and Development**

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value.

Within Conservation Areas the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

## **Policy E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape**

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

## **Policy E8: Coastal Protection Zone**

Development proposals within the Coastal Protection Zone (CPZ), as identified on the proposals map, must not prejudice the objectives of the CPZ or the Water Framework Directive and will be refused except:

- a) where there is an existing use,
- b) it is an appropriate extension or change of use to existing buildings, or replacement of existing buildings,
- c) for low intensity recreational or tourist use e.g. golf courses, driving ranges, sports fields
- d) for uses directly related to agriculture, forestry and fishing.

Proposals must not prejudice the objectives of the CPZ or adversely affect the ecological, geomorphological or landscape importance of the area.

Development will not be permitted on any parts of the coast that are identified as being at risk of flooding or erosion.

## **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.

#### **EP4: Private Water Supplies**

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

#### **Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

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

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

#### **Policy EP7: Control of Development in Flood Risk Areas**

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

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

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

Areas within these risk categories will generally not be suitable:

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

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

## **Policy EP8: Pollution**

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

the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

### **Policy EP9: Contaminated Land**

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

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

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

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

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

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

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

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how

proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

## **Policy 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 T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks**

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

### **Policy 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.

### **Policy E3: Protected Species**

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and



- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

## **Policy E1: Natura 2000 Sites and National Nature Conservation Sites**

### **Natura 2000 designations**

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

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

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

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

## **National designations**

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

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

## **Policy ED7: Rural Business Proposals**

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

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

## **Policy E2: Local Nature Conservation Sites and Biodiversity**

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and

- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

## **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.

**PP3 INFRASTRUCTURE & SERVICES.**

Development must be planned and co-ordinated with infrastructure to ensure that places

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

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

**b) Development proposals will not be supported where they:**

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

**c) Harbours.**

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

**d) Developer Obligations.**

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

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

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

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

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



## **DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

### **(i) Design**

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

**DP8 TOURISM FACILITIES & ACCOMMODATION.**

Proposals which contribute to Moray's tourism industry will be supported where they comply with relevant policies. All proposals must demonstrate a locational need for a specific site.

Development built as tourism/holiday accommodation shall be retained for this purpose and will not become permanent residences. Conditions will be applied to planning consents to control this aspect.

To integrate caravan, chalet and glamping developments into their rural setting, stances/pitches will be required to have an informal layout and be satisfactorily landscaped to ensure development is screened and discrete. Provision within sites for touring caravans/campers and tents must be included.

Proposals for hutting will be supported where it is low impact, does not adversely affect trees or woodland interests, or the habitats and species that rely upon them, the design and ancillary development (e.g. car parking and trails) reflects the wooded environment and the proposal complies with other relevant policies. Proposals must comply with 'New Hutting Developments - Good Practice Guidance on the Planning, Development and Management of Huts and Hut Sites' published by Reforesting Scotland.

Proposals for tourism facilities and accommodation within woodlands must support the proposals and strategy set out in the Moray Woodlands and Forestry Strategy.

## **EP1 NATURAL HERITAGE DESIGNATIONS.**

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

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

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

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

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

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

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

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

### **c) Local Designations**

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

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

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

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

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

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

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

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

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

## **EP2 BIODIVERSITY**

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

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

Proposals for 4 or more housing units or 1000 m<sup>2</sup> or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

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

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

## **EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.**

### **i) Special Landscape Areas (SLA's).**

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, avoid adverse effects on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
  - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
  - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
  - iii) For nationally significant infrastructure developments identified in the National Planning Framework.
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);

- i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
  - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

Where a proposal is covered by both a SLA and CAT or ENV policy/ designation, the SLA policy will take precedence.

## **ii) Landscape Character.**

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

## **EP7 FORESTRY, WOODLANDS AND TREES.**

### **a) Forestry.**

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

### **b) Woodlands.**

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where woodland is removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace within Moray.

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable. Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

**c) Trees and Tree Preservation Orders.**

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

Within Conservation Areas, the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO must be replaced, unless otherwise agreed by the Council.

**EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.**

**a) Flooding.**

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

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

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

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

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

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be



signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

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

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

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

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

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

Where development is permitted, measures to protect against or manage flood risk

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

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

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

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

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

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

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

#### **c) Water Environment**

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

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

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

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

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

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

### **EP13 FOUL DRAINAGE**

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

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

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

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

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

### **a) Pollution.**

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

### **b) Contamination.**

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

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

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

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

## **APPENDIX 2**

### **EC Directive 92/43/EEC: The Conservation of Natural Habitats and of Wild Flora and Fauna ("The Habitats Directive")**

### **Conservation (Natural Habitats, &c.) Regulations 1994 ("The Habitats Regulations") Background**

Under Regulation 44 of the Habitats Regulations certain activities which normally constitute an offence against European Protected Species (EPS) can be carried out legally under a licence from Scottish Natural Heritage (SNH).

Decisions made by SNH, as the licensing authority, must be fully compliant with the Habitats Regulations and the EC Directive. However, it is essential that planning permission is not granted without the Council, as Planning Authority having first satisfied itself that the proposed development will not impact adversely on any European Protected Species on the site, and that the "tests" necessary for any eventual grant of a licence are likely to be met. To do otherwise would be to risk breaching the requirements of the Directive/Regulations, and present a real danger that the developer of the site would be unable to make practical use of the planning permission which had been granted because no Regulation 44 licence would be forthcoming: a situation which is in the interests of no-one.

Before any licence can be issued (and planning permission can be granted) three "tests" must be satisfied as set out below.

#### **Consideration of requirement for a licence**

Bats are a European Protected Species. In this case, a licence is required following site investigations:

A bat roost assessment on the remains of Millie Bothy undertaken by an ecological specialist has confirmed the presence of a single pipistrelle bat roosting in the stonework. This together with mitigation proposals undertaken by the specialist has been submitted to address the abovementioned legal obligations. This has been reviewed by Scottish Natural Heritage, which has also confirmed the requirement for a licence from the Licensing Section of Scottish Natural Heritage. As part of this license determination process the Council as competent authority is required to assess the application against the following three tests and to satisfy itself that all three can be met prior to granting permission:

Test 1 - Licensable purpose (justification for preserving public health, public safety and public interest): The proposal involving the renovation of Millie Bothy to create an office / art gallery will not result in adverse impacts upon public health, safety or interest. Test 1 is met.

Test 2 - No satisfactory alternative: The renovation works to Millie Bothy are required to facilitate viable development of the site. Appropriate mitigation as detailed within the bat roost assessment will be incorporated into the development including timing of works (optimal for bats) and at least two Schwegler 1FR bat tubes being installed within the fabric of the southern gable end. Test 2 is complied with.

Test 3 - Favourable Conservation Status (action will not be detrimental to the maintenance of the EPS population): Scottish Natural Heritage has reviewed the submitted bat roost

assessment (which includes mitigation measures) and is satisfied that there will be no negative overall effect on this particular bat species population at local level. As recommended, a condition shall be attached to the planning consent (if permitted) requiring full adherence with the recommendations detailed within the assessment. Test 3 is complied with.

Informative advice outlining legislative requirements and legal obligations in relation to nesting birds shall also be attached.

## APPENDIX 3

### Habitats Regulations Appraisal (HRA) proforma

#### 1. PROPOSAL DETAILS

##### 1a. Proposal title

Restore and convert existing Millie bothy to office and erect 8 no self-catering holiday units at

##### 1b. Details of proposal

Restore and convert the existing bothy to a office / art gallery and erect 8 no self-catering holiday units

#### 2. PROTECTED AREAS

##### 2a. Name of Natura site

##### Name of component SSSI if relevant

Moray Firth SAC

##### 2b. European qualifying interest(s)

Moray Firth SAC

Bottlenose Dolphins and Subtidal Sandbanks

#### 3. HABITATS REGULATIONS APPRAISAL (HRA) - STAGES

3a. Is the proposal directly connected with or necessary to conservation management of the site?

No

3b. Is the operation likely to have a significant effect on the qualifying interest?

Bottlenose Dolphins - Yes

Subtidal Sandbanks - No

3c. Appraisal of the implications for the site in view of the site's conservation objectives (Appropriate Assessment).

##### APPROPRIATE ASSESSMENT for Moray Firth SAC

Conservation objective (CO)	Assessment
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<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained</p>	<ul style="list-style-type: none"> <li>• Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC depend, will not be adversely affected.</li> <li>• The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark.</li> <li>• This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations.</li> <li>• Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.</li> </ul>
<p>And to ensure for the qualifying species that the following are maintained in the long term:</p>	
<p>Population of the species as a viable component of the site</p>	<ul style="list-style-type: none"> <li>• The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark.</li> <li>• This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations.</li> <li>• Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.</li> </ul>
<p>Distribution of the species within site</p>	<ul style="list-style-type: none"> <li>• The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark.</li> <li>• This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations.</li> <li>• Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.</li> </ul>
<p>Distribution and extent of habitats supporting the species</p>	<ul style="list-style-type: none"> <li>• Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC depend, will not be adversely affected.</li> </ul>
<p>Structure, function and supporting processes of habitats supporting the</p>	<ul style="list-style-type: none"> <li>• Surface water and drainage proposals during construction and subsequent operation must be to the satisfaction of SEPA. This will ensure that the water quality of the Moray Firth, on which the interests of the SAC depend, will not be</li> </ul>



species	adversely affected.
No significant disturbance of the species	<ul style="list-style-type: none"> <li>• The proposal includes the extraction of seawater for use on site. The information submitted with the application indicates that this will take place at high tide with the intake nozzle located a few metres from the high tide mark.</li> <li>• This aspect of the proposal has the potential to disturb dolphins in the vicinity as a result of noise and vibrations.</li> <li>• Information provided by the applicant confirms that, using binoculars, site staff will search the area for the presence of dolphins with operations being halted if any are seen. This will ensure that no dolphins are disturbed as a result of the proposal.</li> </ul>
<p><b>Conclusion of Appropriate Assessment: -</b>  <b><u>Can it be ascertained that the proposal will not adversely affect the integrity of the sites?</u></b></p> <p>Yes.</p>	

#### 4. IS ADDITIONAL MITIGATION REQUIRED TO AVOID ADVERSE IMPACTS?

<p><b>Yes.</b></p> <p>There is no likely significant effect on the sub subtidal sandbanks, therefore no mitigation required.</p> <p>There is no impact on the disturbing of habitats given the mitigation measures proposed for dolphins. As this is an ongoing mitigation practice while water is being abstracted the answer to this question is affirmative.</p>
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#### 6. CONCLUSION

<ul style="list-style-type: none"> <li>• Subject to site staff using binoculars to search the area for the presence of dolphins and operations being halted if any are seen when the extraction pipe is in use, the proposal will not adversely affect the integrity of the SAC.</li> </ul>
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## WARD 06\_17

**19/00800/APP**  
**26th July 2019**

**Plot substitution (approved under ref 08/02766/FUL) to  
change from private to affordable house types on Plots  
142 - 149 Spynie 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
- 1 representation received

**Procedure:**

None.

**Recommendation**

Grant Planning Permission - Subject To The Following:-

**Conditions/Reasons**

1. 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:
  - a) 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
  - b) 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.

2. As part of the permission hereby granted, the houses hereby approved shall only be used for affordable housing purposes in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord (e.g. housing association or similar) to enable the long term delivery of affordable housing on this site; and no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable accommodation hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority.

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

**Reason:** To ensure an acceptable form of development in terms of the required provision and delivery of the affordable housing accommodation proposed for this site wherein the benefits of such provision are passed on to serve the community in future years.

3. All landscaping shall be carried out in accordance with the submitted report AREA 2, SPYNIE, ELGIN OUTLINE LANDSCAPE SPECIFICATION AND MAINTENANCE SCHEDULE dated August 2019 and approved plan 1108/PL02. 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. Two car parking spaces shall be provided within each plot prior to the first occupation/completion of the house, whichever is the sooner. The parking spaces shall thereafter be retained for the purposes of parking vehicles.

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

5. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0 metre in height and fronting onto the public road shall be within 2.4 metres of the edge of the carriageway, measured from the level of the public carriageway.

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

6. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam unless otherwise agreed with the Council, as Planning Authority in consultation with the Roads Authority.

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

7. 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.

8. All surface water drainage proposals shall be in accordance with the submitted report Drainage Impact Assessment A/181043 AFFORDABLE RESIDENTIAL DEVELOPMENT – 8 PLOTS 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.

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

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 AND BUILDING STANDARDS MANAGER has commented:

A Building Warrant will be required for the development.

THE TRANSPORTATION MANAGER has commented:

The road serving the proposed development is currently under construction. The applicant is obliged to apply/amend the necessary permissions as appropriate for construction consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads or to modify the existing public road, in accordance with

Section 56 of the Roads (Scotland) Act. Advice on this matter can be obtained from the Moray Council web site or by emailing [constructionconsent@moray.gov.uk](mailto:constructionconsent@moray.gov.uk)

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road.

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

If required, street furniture which needs to be repositioned will be at the expense of the developer. Advice on these matters can be obtained by e-mailing [road.maint@moray.gov.uk](mailto:road.maint@moray.gov.uk)

Street lighting will be required as part of the development proposal.

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

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

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

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

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

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

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

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
18171/OS)002	Location plan
1817(PL)104	House type F - elevations and floor plans
1817(PL)105	House type G - elevations and floor plans
824	Combined services layout
921	Proposed roads layout
922	Proposed drainage layout
923	Proposed site levels
18171(PL)002 A	Site layout plan
1108/PL02	Landscaping







## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00800/APP**

**Site Address:**

Plots 142 - 149 Spynie

Elgin

**Applicant Name:**

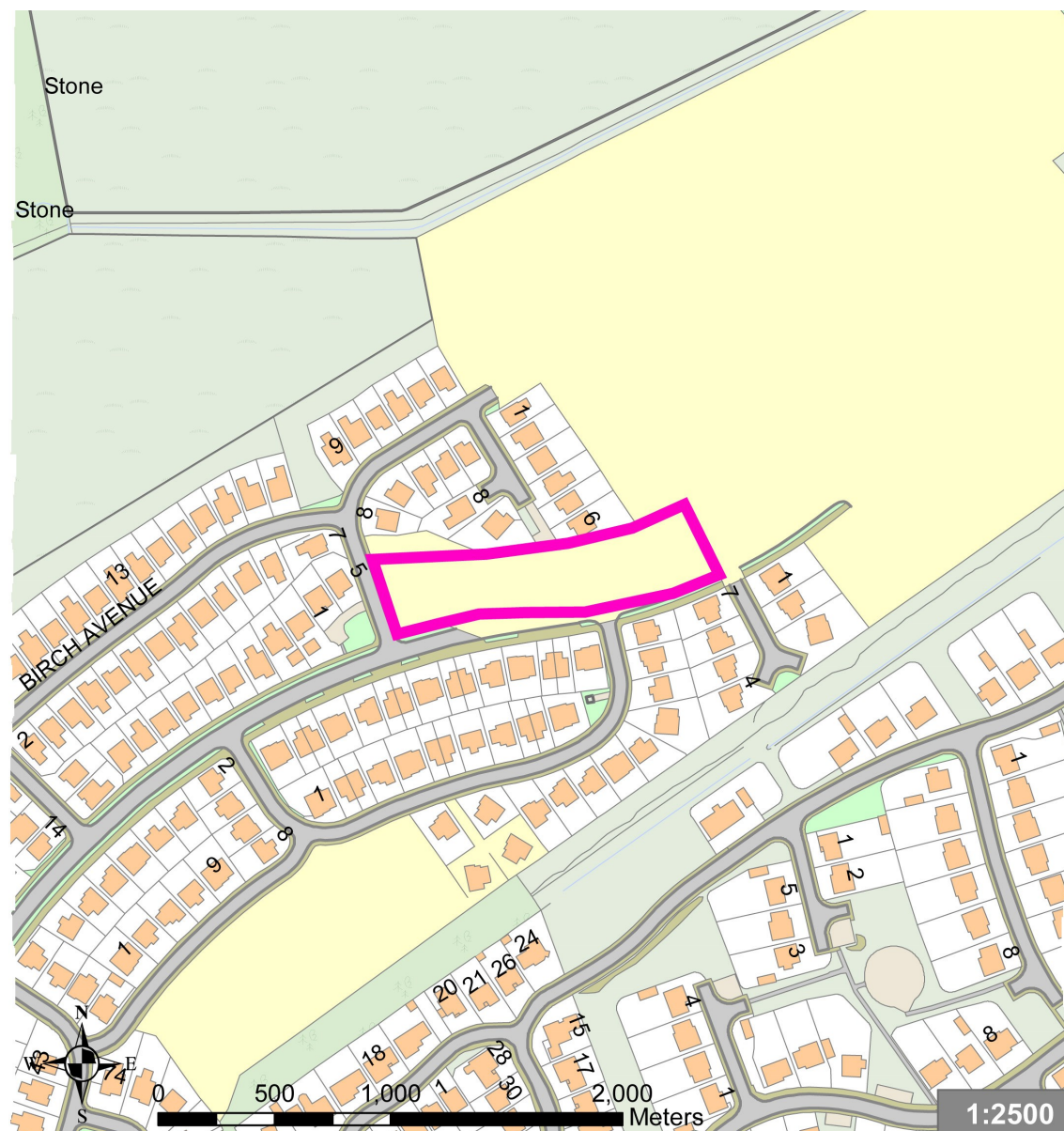
Robertson Homes

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## Location Plan



**Site Location**





Site plan











## PLANNING APPLICATION: 19/00800/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 replace 8 private houses approved under application reference 08/02766/FUL with different house types which will be delivered as affordable housing.
- The units are an 'off-set' affordable housing contribution from another development (10/01114/APP – Bilbohall).
- There will be no increase in the overall number of units on the R5 site.
- The units will be taken by a Housing Association and will be made available for affordable rent.
- Two different house types are proposed. Type F is a three bedroom semi-detached house. Type G is a four bedroom detached house. Both are two storeys.
- Four detached and four semi-detached units are proposed.
- Landscaping is proposed along the eastern boundary of 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 Drainage Impact Assessment and Landscape Specification and Maintenance Schedule.

### **THE SITE**

- The site is a small area of land towards the north east of the Elgin R5 Spynie Hospital North site as identified in the Moray Local Development Plan (MLDP) 2015.
- The designated site extends to 21.63ha and has planning permission for 435 units. The application site is 0.22ha.
- The majority of the houses and the road network have been completed under the previous permission.
- The sites sit to the north of West Cove Sea Road.
- Eight units have previously been approved on these plots.

### **HISTORY**

**10/01114/APP** - Vary/amend planning condition no 11 of application reference 04/00476/FUL to provide 4 affordable houses on site (during second stage of development as approved) and transfer 8 affordable houses to Spynie Elgin and amend proposed house types originally approved at Bilbohall R9 - Granted 24/08/10.



**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**

None.

**CONSULTATIONS**

**Strategic Planning & Delivery:** The site has consent under 08/02766/FUL. 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.

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 parking arrangement for plots 44 to 45 these could be amended to bring them in line with policy PP3 Placemaking and associated Urban Design Supplementary Guidance. Side parking could be incorporated and the hedging amended see annotated plan.

A landscaping plan is required.

It is noted that the proposal, in combination with application reference 19/00811/APP 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 response:** The plans have been amended to show side parking at plots 44 and 45 and a landscaping plan has been submitted.

**Developer Obligations:** This planning application is an amendment of a previously permitted planning application, 08/02766/FUL, and results in a decrease of SRUE. No obligations will be sought in this instance.

**Housing Strategy & Development Manager:** No objection.  
The delivery of these 8 units of affordable housing will contribute to the total outstanding on this site. The proposals are acceptable.

The remaining affordable housing requirements on the R5 Spynie site must be addressed.

**Environmental Health:** No objection.

**Contaminated Land:** No objection.

**Transportation Manager:** No objection subject to conditions relating to parking, treatment of road boundaries, construction of driveways and the provision of a Construction Traffic Management Plan



**SEPA:** No objection. This is not a major application (and SEPA had no outstanding objections to the major application at this site).

**SNH:** No objection.

**Scottish Water** – No objection.

## **OBJECTIONS-REPRESENTATIONS**

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

**Issue:** Impact on house prices.

**Comments:** This is not a material consideration.

**Issue:** The ratio of private to affordable across the overall site.

**Comments:** The original planning permission (08/02766/FUL) was granted subject to a condition that required 87 affordable units to be provided across the whole development. Subsequently an agreement (10/01114/APP) was reached to transfer 8 affordable units from another site. This is in addition to the affordable housing requirements arising directly from the overall development on the R5 Spynie. The current application honours the obligation to provide the 8 transferred units. The transfer of these affordable units from another development by the same applicant was approved at Committee in August 2010 (10/01114/APP).

## **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. At that time no details of the siting or design of these eight units was provided.

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 but is currently the subject of an application (19/00811/APP) to vary the terms of the permission.

The current application is to provide the eight affordable units that were transferred from Bilbohall.

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

The principal of transferring the affordable housing from Bilbohall to this site has already been established by a previous application (10/01114/APP) which was approved at Committee. The current proposal would see this commitment to deliver affordable housing discharged. A Housing Association (Hanover Housing) is in place and the units will be made available for affordable rent. It should be noted that planning permission exists for eight houses on these plots and these could be built in accordance with the approved plans and made available as affordable housing without the need for planning permission. The current application is necessitated by the need to provide house types that meet the requirements of the identified affordable housing provider. This proposal will result in affordable housing on the ground and will be the conclusion of the commitment to provide these units to meet housing need in Elgin. The proposal accords with the terms of the previous permissions that relate to the site and is supported by the Housing Strategy and Policy Manager.

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

Two new house types are proposed. These are not currently found elsewhere in the development but are currently proposed in application 19/00811/APP on an adjoining part of the R5 site. Type F is a three bedroom semi-detached house. Type G is a four bedroom detached house. Both are two storey. Four detached and four semi-detached units are proposed. The house types have a simple form and style with minimal detailing aside from a small canopy over the front door. Both house types will be finished in a dry dash render with dark grey concrete tiles on the roof. The originally approved houses on

these plots are all two storey detached houses and are a combination of 3 and 4 bedroom units. The approved house types have more detailing and incorporate features such as integral garages. They were also finished in a dry dash render with dark concrete roof tiles. While the proposed house types are simpler in form and finish they reflect the suburban style of the approved development. The proposed materials will be in keeping with the previously approved development. 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 proposed layout follows that of the existing permission. The space available is constrained by the development carried out to date under the existing permission and there is limited scope to alter this. The parking for plots 44 and 45 has been altered to make it less dominant in the street scene in accordance with policy PP3. A landscaping plan has been provided which shows planting along the roadside boundary of the plots and hedging along the eastern edge of the application 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. It is recommended that the provision and maintenance of the landscaping proposals are controlled by condition.

The relationship between the proposed houses and surrounding houses is similar to that of the already approved houses. The density and scale of development is unaltered and as such there will be no greater 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.

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 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 has already been provided under the previous permission (08/02766/FUL) and no changes are required to accommodate the current proposal. A condition is recommended to ensure that roadside boundary treatments are kept to a maximum of 1m in height to avoid obstruction of sight lines. The condition will ensure safe entry and exit from individual plots in accordance with policy T2.

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. Obligations were sought as part of the original application (08/02766/APP) and no further obligations are sought at this time.

### **Recommendation**

This proposal will result in development on the ground to meet current housing need in Elgin and honour a previous commitment for affordable house provision. This proposal results in a transfer of units from another previously approved site and replaces a comparable number of house units at R5. It is therefore recommended that planning permission is granted subject to 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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## **APPENDIX**

### **POLICY**

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

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

#### **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 E5: Open Spaces**

### **Safeguarding Open Spaces**

Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or
- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

### **Provision of new Open Spaces**

#### **Quantity**

New green spaces should be provided to the following standards;

- Residential sites less than 10 units - landscaping to be determined under the terms of policies PP3 and IMP1 to integrate the new development.

- Residential sites 10-50 units and new industrial sites- minimum 15% open space
- Residential sites 51-200 units- minimum 20% open space
- Residential sites 201 units and above and Business Parks- minimum 30% open space including allotments, formal parks and playspaces within residential sites.

## **Quality**

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible
- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function
- Support the principles of Placemaking policy PP3.

## **Allotments**

Proposals for allotments on existing open spaces will be supported where they do not adversely affect the primary function of the space or undermine the amenity value of the area and where a specific locational requirement has been identified by the Council. Consideration will include related aspects such as access and car parking and not just the allotment area itself.

## **Policy BE1: Scheduled Monuments and National Designations**

### **National Designations**

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

### **Local Designations**

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

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for the development, and

- c) Any adverse effects can be satisfactorily mitigated at the developers expense

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

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

#### **Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

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

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

#### **Policy EP7: Control of Development in Flood Risk Areas**

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

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

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.



- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
  - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
  - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
  - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

### **Policy EP8: Pollution**

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

## **Policy 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 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.

## **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.

### **EP5 OPEN SPACE.**

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

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

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

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

ENV4 Sports Area in consultation with SportScotland) or replacement open space provision of equivalent function, quality and accessibility is made.

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

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

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

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

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

New development must incorporate accessible multifunctional open space of 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

## WARD 06\_17

**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**

**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:**

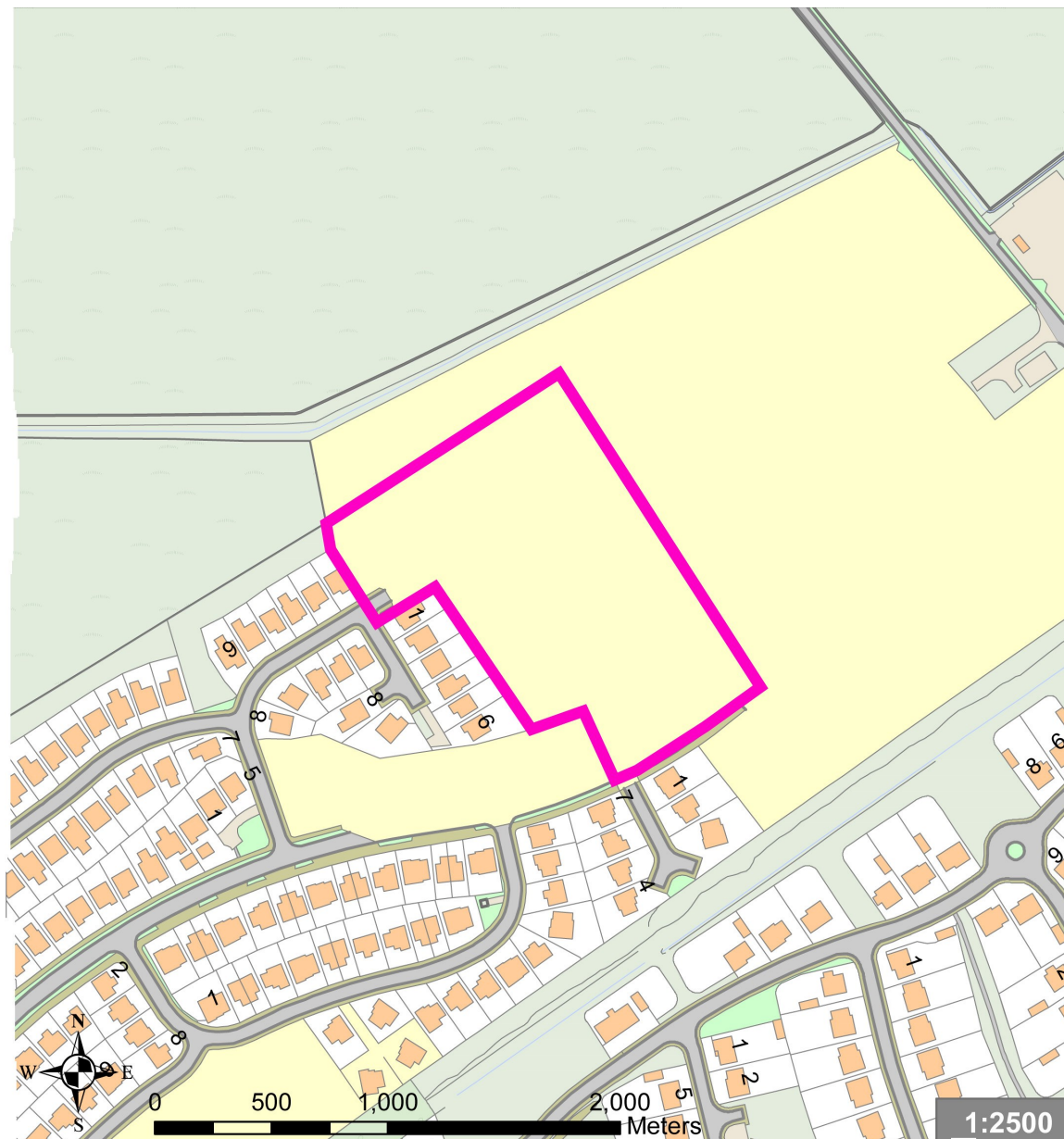
Robertson Homes

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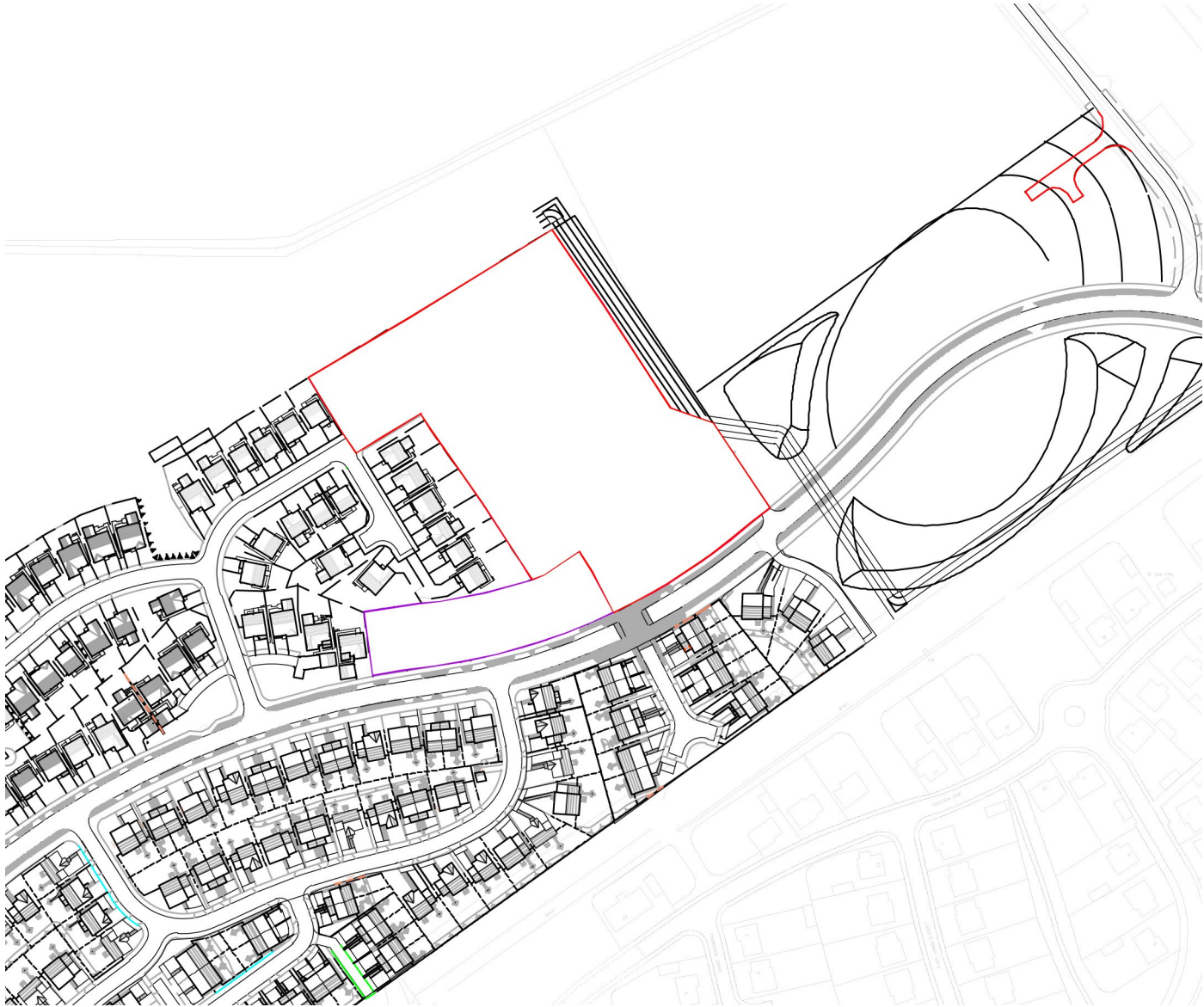
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## Location Plan



**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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## **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;

- 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
- 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.

## WARD 07\_17

**19/00547/APP**  
**13th May 2019**

**Affordable housing landscaping and associated infrastructure (including relocation of playpark) at Playpark Bain Avenue Elgin Moray for Springfield Properties PLC**

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**Comments:**

- A SITE VISIT has been carried out.
- The appointed officer is minded to refuse the application (as recommended below) as a material departure from the development.
- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes.
- 9 objections/representations received.

**Procedure:**

- None

**Recommendation:** Refusal

The proposal is contrary to the Elgin ENV3 Amenity Greenspace designation and policies E5 Open Space, H1 Housing Land and PP3 Placemaking of the Moray Local Development Plan (MLDP) 2015 for the following reasons:

1. The proposal would result in the unacceptable loss of the Elgin ENV3 designation at Bain Avenue, where the benefits of the proposed affordable houses are not considered to outweigh the value of losing this amenity and recreational open space area. The loss of this designated space would be contrary to policy E5 and H1 Housing Land by having a detrimental impact on the surrounding environment with a reduction of amenity space.
2. The additional housing on the ENV designation will negatively reduce the size of the overall green space and its ability to function as a neighbourhood park and its ability to adapt to any future recreational needs of the development and is therefore contrary to Policy PP3.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
MC26_ENG_250		FFL layout
2016/D/PL/01		D type - elevations and floor plans
2016/HI/PL/01		Cottage flats H1 type - elevations and floor plans
EL(--)-ENG-110		Drainage layout
MC(26)_LP_01	A	Location plan
MC/2017/F/01	H	F type semi detached - elevations and floor plans
MC/2018/C/01		CS type semi detached - elevations and floor plans
MC/2018/CS/01	D	CS type semi-detached - elevations and floor plans
MC26 FRA		2 of 5 Figures
MC26 FRA		3 of 5 Figures
MC26 FRA		5 of 5 Appendices
MC26-ENG-200		Swept path analysis layout
MC26_L_01	A	Village Green landscaping
MC26_SL_01	J	Village Green Elgin site layout
		Village Green - New Elgin Greenspace



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00547/APP**

**Site Address:**

Playpark

Bain Avenue Elgin

**Applicant Name:**

Springfield Properties PLC

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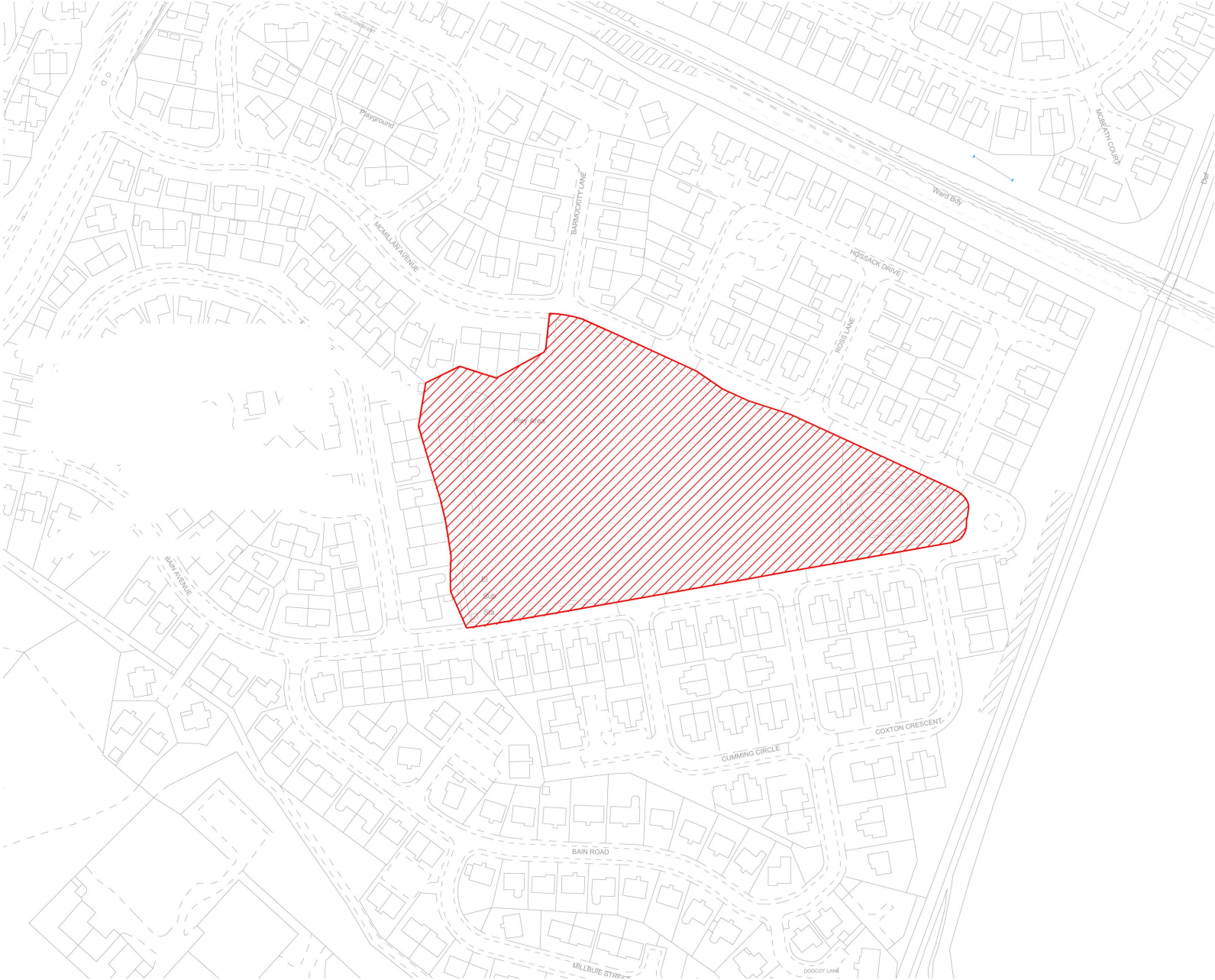
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## Location Plan





**Site Location**





Site plan



















## PLANNING APPLICATION: 19/00547/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**

- Detailed application (amended) to erect 26 affordable housing units (12 houses and 4 flats) and associated infrastructure at land at Bain Avenue Grove, Elgin.
- The units would form a single street running north to south linking Macmillian Avenue with Bain Avenue. The layout incorporates footpaths, a cycleway, open space and landscaping.
- The units would be a mixture of terraced and semi-detached 2 storey designs (providing 1, 3 or 4 bedrooms), with material finishes of white dry dash rough cast, larch cladding and grey roof tiles (to be agreed). They would have parking (on plot or communal), gardens, low hedge boundary planting along their frontages and 1.8m high timber fencing to the rear.
- The units would connect to the public water supply and foul drainage network. Surface drainage which discharge to the SUDS pond at the bottom of the site delivered by swale.
- The following supporting documents have also been provided; Design and Access Statement, Planning Statement which incorporates the Sustainability Statement, Transport Statement, Flood Risk Assessment, and Drainage Strategy Report.
- The proposals as amended include onsite landscaping proposals updated children's playpark, kickabout area and public art.

### **THE SITE**

- The application site extends to 2.09 ha and forms a triangular shaped area of open ground containing existing SUDS pond and play area serving wider Glassgreen development.
- The site forms part of the Elgin (ENV4 Playspace for children and teenagers and ENV3 Amenity) designation, as identified within the Moray Local Development Plan (MLDP) 2015.

### **HISTORY**

**02/01131/FUL** - Establish community parkland and community woodlands including pathway on CF3 Linkwood Elgin. Establish community recreational area and community facilities including football pitches, site for pavilion, road and car parking layout, site for church and other community neighbourhood retail and office uses on land at CF4. Build residential development on R12 Reiket Lane Elgin at R12, CF3 & CF4 Elgin. Application approved 20/08/2004.

**09/01272/FUL** - Develop 128 dwellings including 73 council/affordable homes at R3 Linkwood East Elgin Moray. Application approved 08/02/2010.

**16/01074/APP** - Erection of affordable housing [16 units] and associated infrastructure at Stonecross Hill, Waulkmill Grove, Elgin – Application refused at committee 27.03.2017. Application subsequently appealed to DPEA and approved 03.11.2017.

## **POLICY - SEE APPENDIX**

### **ADVERTISEMENTS**

- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes.

### **CONSULTATIONS**

**Strategic Planning and Delivery** - The principle of development on this site is not supported as it is an unacceptable departure from Policy E5 Open Space. The loss of ENV is not supported by policy E5. The only exception is where a public use is proposed that outweighs the value of the open space; adverse impacts on the recreational, amenity and biodiversity value of the site are minimised; and there is a clear excess of the type of ENV within easy access and the loss will not negatively impact on the overall quality and quantity of open space provision.

Policy H1 Housing Land does not support new housing on land not designated for residential development where this is designated for an alternative use. This proposal is on land designated as ENV3 and ENV4 and is the open space for the Bain/Mcmillan Avenue development. The proposal is therefore a departure from policy H1.

Following a quality audit the proposal fails to satisfy the requirements of Policy PP3 Placemaking in terms of development layout, provision of additional SUDS features and recreational spaces.

**Moray Flood Risk Management** – No objection to proposed development following submission of further drainage and flood risk information.

**Developer Obligations** - Developer Obligations assessment carried out in relation to current Local Development Plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities and a new primary school at Linkwood. A unilateral instrument of Planning Obligation will be required to secure these contributions.

**Elgin Community Council** - We like the fact that the play area can be seen from various properties. These are too often stuck away out of sight making them seem unsafe unless adults are in attendance. If other parents can see the area it's more likely that younger children from nearby will be allowed to use the play area.

This overall "village green" area could be a nice place for family oriented activities with the play area being the catalyst for such activities. One could imagine events like a



community barbeque for example with an intergenerational group of people taking part yet allowing the houses closest to retain their privacy behind the boundary fence.

**Environmental Protection** – No objections or comment.

**Sport Scotland** – No objection or comment.

**Scottish Water** – Scottish Water has no objection to this planning application.

**Environmental Health** – No objections or comment.

**Contaminated Land** - No objections or comment.

**Transportation Manager** – No objection in principle but conditions suggested in relation to road layout, drainage, parking, landscaping, refuse collection, surfacing proposals.

**Housing Strategy and Development Manager** - The applicant's proposals for provision of 100% affordable housing are noted. The proposals provide affordable housing in excess of that required by Policy H8 (i.e. 25%). The over provision on this site will not be considered to offset any affordable housing required from any other development.

The applicant should contact Housing and Property to agree the delivery arrangements of the affordable housing prior to commencing works on site.

Policy H9 is not applicable because there are no private sector housing units proposed.

Any consent should include provision for reassessment of requirements under Policies H8 and H9, if applicant changes the tenure of any of the properties from public to private sector.

## **OBJECTIONS-REPRESENTATIONS**

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

There have been a total of 9 representations received.

[REDACTED]

Two neighbour notification periods have been run during the consideration of the application, and all representations have been considered and summarised below, with no

assumption that previous representations superseded have been withdrawn. All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation being finalised. The material grounds for objection/representation are as summarised below.

The grounds for objection/representations have been generally grouped into the topic heading below to aid reference.

### **Issue: Flooding**

- The area already floods and if the ground is going to be raised behind 63 Fogwatt Lane for the new houses the water is going to flow back the way into the garden and cause it to flood.
- The area is waterlogged a large portion of the time, as noted by SEPA. Since the consultation on 7 March, we have observed that a drainage test has been carried out on the proposed site (with none of the participants displaying any identification), on a day where there hadn't been rainfall for at least 2 days previous. Despite this, the digger tracks still managed to tear up the ground quite considerably, and during the test, the area flooded, and the water remained the next day. We haven't seen the official results of the drainage test (as we don't know who actually carried it out), but we have seen the physical results of saturated, torn up ground, and long lasting puddles.
- On looking at the plans, the finished floor level (FFL) for all properties will be above the current levels of the ground. Without reference points on the Finished Floor Level drawing it is hard to ascertain the housing level compared to current properties. The topo survey within the drainage survey indicates that 14 property's FFL will be 0.5m and above the current land levels of which approx 6 properties will be approx 1m FFL higher than the current land levels. This would raise the properties where surface water flooding often occurs on the village green but this could affect the overall drainage and heighten further drainage flooding issues on this site. If there was any future flooding issues on this site, the village green would act as a natural flood storage location and constructing more properties on this location would reduce its benefits and increase the risk.
- The proposed development site is also well within the high risk zone of the flood plan for this area, while my property is just outside of it. Building housing in the proposed location would divert the flow of any water that builds up as a result of flooding and potentially end up flooding my property, protection from which was a contributing factor in our decision to purchase our property. There has over the last week been a few days of rainfall, and the grass is still like a sponge a couple of days since then. This demonstrates how the grass serves as an important part of how the surrounding properties are protected from heavy rainfall.
- Over the 12 years of living at Bain Avenue flood events have been witnessed and the area known as the village green can often be left with surface flooding after heavy rainfall.
- I was astonished that the flood risk assessment refers to "Waulkmill Village Green"? Waulkmill is located in a different location within Elgin, this does bring into question the accuracy of the report and whether this report has been a desktop study only.
- The current village green already suffers from very poor drainage, the SUDS system is not working. We have already suffered from floods in the area and are still very concerned that the current drainage system is ineffective and developing the site further would only exacerbate the situation.
- There have been ground water issues within the development over the last 11 years and the village green is regularly waterlogged/flooded. This does not prevent

residents using the village green. However if an additional 26 houses were built then this would only compound the ground conditions further.

- At the PAN exhibition, Springfield Properties confirmed that the 26 additional houses would be built at a higher finished floor level than the existing houses (to ensure they do not get flooded). Not only will this be visually incongruous but it will also help to ensure that the water will run off into the existing social housing on Bain Avenue.

### **Comment (PO)**

- The existing topography of the site flows towards the existing detention basin not towards objectors properties.
- The surface water flooding issue is known about and the site is susceptible to pluvial flooding. As part of the application submission a flood risk assessment and drainage impact assessment was included but found to be lacking sufficient detail to make an informed decision on the likely impact of the proposal. The applicant submitted additional information in the form of enhanced drainage statement and flood risk assessment and following further consultation with Moray Flood Risk Management, including assessing all details of finished floor levels, images and details of the Bain Avenue site, they have not objected on flood or drainage grounds.
- SEPA has been consulted and has confirmed that as this site is subject to pluvial flooding only the determining body is MFRM not SEPA. Consequently they have raised no objection.
- The applicant/agent has confirmed that the flooding shown in images attached to objection dated 10 June 2019 and separate objection photo submitted 26 June 2019 refer to an event that happened in 2014 prior to construction of the recent part of the development known as MC20 and significant remedial works had been undertaken to resolve this to ensure it does not reoccur in the future.
- Despite reference to other sites the Moray Flood Risk Management team are satisfied with the information submitted in relation to the application site.
- The concerns with a further 26 units on the ENV designation is understood and referred to and covered elsewhere in this report. However despite an increase in units and taking into consideration all factors including finished floor levels the MFRM team are satisfied with the proposed mitigation in relation to drainage and surface water treatment for the development.

### **Issue: Loss of ENV**

- The park is also going to be taken away during the building process however this means the area will be left with no park for a number of months for a very large residential area leaving a large number of kids with no access to another park without having to cross busy roads.
- I also know that we are meant to have around 30% open area in every residential area which we are already below so if you are to add more houses here this further reduces the percentage.
- The area of green space which exists at the moment is even too small for the number of houses and families living on the development.
- When property owners in Bain Avenue, MacMillan Avenue and Barmuckity Lane purchased our properties we were assured that the green space would be kept and the most development that would ever be undertaken would be limited to a single row of properties directly behind the existing properties in Fogwatt Lane. This planning application is for 2 rows of properties therefore reducing significantly the amount of green space.

- The current size of the Village Green is inadequate for the existing number of properties on this development. If these 26 houses are built it will reduce the size of the greenspace further.
- This application does not comply with the windfall policy especially where the site has been designated through the Local Plan process since 2015 therefore it does not meet one of the main key tests of the Policy. This would, in turn, show that all ENVs designated within the Local Plan could also be identified as windfall for affordable housing.
- The area of open space was created by Springfield Properties under multiple applications, with 09/01272/FUL which created the village green area. The applicant and land owner has had multiple occasions when submitting previous planning applications and through the compensatory planting from 16/01074/APP, to improve the open space at this site but unfortunately they have failed to improve it. Springfield Properties has highlighted the need for affordable housing within Elgin as their main driver for developing on an existing designated ENV site. Springfield Properties has many other developed sites in Elgin, some within the New Elgin area approximately 1 mile from this site, where they have offset the construction of the required affordable properties - these have been constructed on other sites, this includes the development at Bain Avenue and Stonecross. Sites developed under applications 10/02115/APP and 15/02056/APP have much higher quality open space and are a more sought after quality development. These two developments do not have any affordable/Council properties and do not have a general mix of private and affordable housing. It appears the developer has used the Bain Avenue development as an area to place affordable housing leaving the area with a very high percentage of affordable houses in one place. Adding further affordable units (Social housing) would not achieve a good mix of tenure on this site and it would further increase this large concentration of social housing at this development and therefore possibly increase the difficulties associated with this.
- Will the need for more social housing by Moray Council blind them to the obvious significant monetary costs that they will have to fund when their existing social housing is flooded and residents will require to be re-homed and the houses repaired etc?

#### **Comment (PO)**

- The principle of the development is not acceptable because of the impact on and the loss of ENV designation. The local development plan background has been referred to elsewhere in this report and sets the context for why this proposal is being recommended for refusal.
- The site is not within the Council's Strategic Housing Investment Programme (SHIP). Investment in affordable housing is largely dependent on the level of resources from Scottish Government and this is acknowledged within the Local Housing Strategy (LHS). The LHS 5yr supply target in the Elgin Area is 618 affordable houses. The barrier to meeting this target is not land, it is finance. The SHIP forecasts 267 completions in the Elgin Area 2020/2021, with 233 of these in Elgin. Sufficient land is designated in Elgin, including land within the applicant's control that has planning consent, where delivery of affordable housing must be prioritised before consideration is given to eroding open space that was intended to meet the open space needs of previous housing development.
- Moray Council is not the delivery partner for the affordable housing. It is understood this is to be Hanover Housing Association. The issues of flooding have been covered already and whilst affordable housing has been considered a public use through other applications in this case the proposal does not outweigh the value of

the open space for recreational and amenity public use. The ENV is an important open space within the locality performing a function for the wider neighbourhood.

- See also the observations section of the report.

#### **Issue: Transport**

- The TA1 form is only completed for the proposed site as it is a contained site within an area rather than looking at the development as a whole. The TA1 form indicates there will be at least 60 vehicle movements over a two hour period each day between the proposed site and Bain/McMillan Avenue. This report does not include any additional vehicle movements during other hours or from visitors/service providers etc. This would mean vehicle movements would be much higher. The TA1 form does not take into account the increased vehicle movements to and from the junctions to Reiket Lane or the cumulative effect on the pressurised junctions indicated in the proposed Local Development Plan and the Elgin Transport Strategy e.g. TSP33, 34, 42, 45 and 30 to name a few. These are located along Reiket Lane/Linkwood Road/Thornhill Road/Edgar Road etc.
- I believe due to the cumulative effect of vehicle movements from this proposed development, the newly completed Stonecross development and the ongoing developments at Linkwood Steading and Elgin South, a larger study should take place. Much of the road network within the Linkwood development is subject to high numbers of on street parking. This is quite evident to the west of the development site on Bain Avenue. Furthermore, due to the phased development of the site from Reiket Lane, the piecemeal phased approach of the site and the documented over capacity of the site, the early constructed sections of Bain/MacMillan Avenue with Reiket Lane may not have the capacity or have been designed for the additional vehicle movements.
- The creation of extra dwellings will inevitably create extra traffic in an area which is already busy and through which drivers travel at excessive speeds with no regard to children crossing or other pedestrians or road users.
- Further Housing development would only increase traffic in the area and current speed restrictions are poorly designed in reflection to other Linkwood estates such as Glassgreen.

#### **Comment (PO):**

- Whilst the concerns are noted, the proposal (as amended) is considered nonetheless to be acceptable in terms of providing safe access and parking in accordance with Policies T2 and T5. The Transportation Manager has considered all of these issues as part of the application but does not object to the proposal on road safety, traffic congestion or parking grounds subject to conditions and informative notes being attached to the planning consent if permitted.
- It would not be reasonable to require the current development to address any perceived shortfall in parking spaces in the wider locality.

#### **Issue: Compensatory planting and loss of green space**

- Addition of the compensatory planting under application 16/01074/APP would raise the quality of the open space to meet the criteria of the Council's Policies and Open Space Strategy. The compensatory planting from 16/01074/APP was implemented by Springfield Properties but due to damage/plants dying, Springfield Properties has failed to meet their own maintenance schedule as approved under 16/01074/APP. It now appears that after the decision at Stonecross under planning application 16/01074/APP to resolve the issue of the inappropriate trees, very poor quality open space and the secluded play area within the green corridor, this allowed Springfield

Properties to develop affordable houses on a designated ENV area. This decision has now set a precedent where the developer and land owner, Springfield Properties, believe that by applying for affordable houses they can develop on ENVs which they have not maintained or provided as quality open space, either by themselves or their associated company Screen Autumn, which is the Factor Maintenance company on many of their developed sites.

- The proposed development in the village green area concentrates on moving the play park and landscaping around it. This is presuming the main purpose for this area is a play park. Many families and children enjoy the current play park on this site but much of the open area is utilised for exercising dogs, ball sports, biking etc, these activities welcome the size of the village green where they can be separate from each other. The proposed change would minimise the uses on this site and cause issues with these activities trying to take place in this area.
- The developer appears to just be adding approx 12 new trees for the village green on top of the tree compensatory planting and relocating the current play equipment and disregarding the other uses and space the village green brings to the residents of this development.
- Currently No play park provision has been made at Linkwood Steading development, due to the layout of the footpaths, we are to assume that the current village green and park at Bain Ave are to accommodate these houses as well. Springfield Property stated that they needed to build a play park for the steadings but this is not on as a condition on their planning approval decision notice.
- This is an area for dog walking which is already limited in the area due to even more reductions in Green space.

#### **Comment (PO):**

- To offset the loss of mature trees at Stonecross Hill (16/01074/APP) the applicant proposed to provide off-site compensatory planting on an area of open space at Bain Avenue ('The Village Green'), which is within the applicant's control. The area at Bain Avenue has already been identified as a suitable location for compensatory planting, as it is within the vicinity of Stonecross and in need of enhancement to improve the amenity value of this 'village green'. As has been identified the planting took place but did not survive, no attempt has been made to replant and although this proposal seeks to provide planting this is not in addition to that which was supposed to be delivered and nor does it override the loss and erosion of greenspace.
- The ENV should function as a Neighbourhood Park not just for the immediate development but also the locality as there is a limited provision of quality open space in the adjoining neighbourhoods. As such the proposed reduction in greenspace here is recognised and the application is recommended for refusal.

#### **Issue: Amenity/Overdevelopment**

- An objector's property is a bungalow and surrounded on 3 sides by other bungalows, the plan to build a two storey dwelling at the side of the property will cause the property to become crowded. If the building must go ahead it would be preferable to build a bungalow to the side of said property rather than a house. (There are single storey dwellings included in the plans).
- Cumulative applications (09/01272/FUL and 14/00938/APP refer) highlight the over capacity of the development from the initial 380 units, to 434 units, exceeding it by 44 units (11%) to 454 units exceeding it by 74 units (14%). With the proposed application increases this to 482 units exceeding the initial 380 by 102 units (20%) The figures show the site is currently exceeding its capacity by 74 units (14%) and

permitting this proposed application would be detrimental to this development due to its overcapacity and reduction of open green space.

**Comment (PO):**

- The preference for a bungalow is noted however the proximity of the proposed affordable units to existing residential units and mix of house types proposed would not lead to an unacceptable loss of amenity sufficient to refuse the application on these grounds. The issue in this case is the loss of an amenity greenspace.
- The additional housing will negatively reduce the size of the overall green space and its ability to function as a neighbourhood park and its ability to adapt to any future recreational needs of the development. As such the application is recommended for refusal. The density of other developments in the locality will have been assessed at the time of their consideration under the planning application process.

**BACKGROUND**

Relevant to the current Hierarchy Regulations and for residential development on a site which exceeds 2 hectares, the proposal would be a major development for planning purposes and was be subject to PAN and pre-application consultation procedures, including a report to committee - 19/00105/PAN refers.

The applicant consulted with Elgin Community Council and held a staffed exhibition at the New Elgin and Ashgrove Public Hall, Elgin on 7 March 2019 prior to submission of this application.

**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 and Delivery Manager.

In this case objections have been received to the non-inclusion of the site at Bain Avenue and to Policy EP5 Open Space where housing is specifically excluded from what is considered essential community infrastructure and the non-inclusion of the site at Bain Avenue. The proposal is subject to a designated site which will be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below:

**Impact of development upon the ENV designations (Elgin ENV4 Playspace for children and teenagers and ENV3 Amenity, Policy E5, PP3, IMP1 and H1)**

For ENV designations, the governing policy E5 Open Spaces states that development which would cause the loss of, or adversely impact on such areas will be refused unless;

- The proposal is for public use that outweighs the value of the open space or is ancillary to the principle use and will enhance 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 to 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 or equal or greater benefit will be made available and is easily accessible for users of the developed space.

Policy E5 also provides standards for the provision of new open spaces in developments (in terms of quantity and quality) to provide recreational, landscape and biodiversity benefits. These include the requirement for residential sites of 10-50 units to have a minimum of 15% open space, and for new space to 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.

Policy H1 Housing Land allows for new housing on land not designated for residential development within the settlements (i.e. windfall sites) subject to the following requirements:

- 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.

The (amended) proposal is a departure from Policy H1 because the site is designated for an alternative use, not for housing but rather it is subject to an environmental designation. A material change of use would occur with redevelopment, from the Elgin ENV3 designation to residential use. The proposal would also not satisfy the other requirements of Policy H1 and therefore Policy E5.

The proposal is for affordable housing on an area of open ground used as amenity green space. As amended 26 affordable units are to be provided with associated landscaping,



SUDS features including swale running west – east to a detention pond, children's playpark and public art.

The principle of development on this site is not supported as it is an unacceptable departure from Policy E5 Open Space. The loss of ENV is not supported by policy E5 where the exceptions are where a public use is proposed that outweighs the value of the open space; adverse impacts on the recreational, amenity and biodiversity value of the site are minimised; and there is a clear excess of the type of ENV within easy access and the loss will not negatively impact on the overall quality and quantity of open space provision.

Whilst affordable housing has been considered a public use through other applications in this case the proposal does not outweigh the value of the open space affecting hundreds of residences in the Bain Avenue area. The ENV is an important open space within the locality performing a function for the wider neighbourhood. The site should perform the role of a Neighbourhood Park and a reduction in size with no meaningful improvements in quality and function would diminish this role and reduce recreational opportunities.

A quality audit exercise has been undertaken and the findings reported back to the developer who has chosen to amend the proposals to address concerns raised.

The revised layout submitted made some minor improvements and these include the reorientation of plots 5-8 to front the street and the introduction of swales. While the changes are the introduction of swales are improvements they are not sufficient to remove the objection in principle. The revised layout also shows a kickabout area located in between the SUDS pond and the playpark which is a requirement for a Neighbourhood Park as set out in the Open Space Strategy SG.

The ENV should function as a Neighbourhood Park not just for the immediate development but also the locality as there is a limited provision of quality open space in the adjoining neighbourhoods. While the requirement of a kickabout area has now been provided, it is not enough to remove the objection as the loss of open space from this important ENV (0.86 ha) to be taken up for additional housing which will not allow the open space to function as a Neighbourhood Park sufficiently as set out in the Open Space Strategy SG. Furthermore, the function of the ENV has not changed drastically with minimal improvements in terms of quality and function as the existing playpark has only been relocated, the proposed planting should already be provided to compensate for the loss of woodland at Waulkmill Grove, and the reduction in size of the ENV will limit the flexibility of the ENV to adapt to any future recreational needs of the development.

In relation to PP2 Sustainable Economic Growth, the proposed development would see the erosion of designated ENV greenspace for multiple developments in the area which cannot be offset or mitigated against.

In relation to PP3 Placemaking the revised layout has sought to address several of the concerns raised in the Quality Audit (QA). It scored as follows;-

DESIGN PRINCIPLE	AUDIT
Connections	
Public Transport	
Safer Environment	
Car Parking	
Legibility/Street Hierarchy	
Character & Identity	
Housing Mix	
Access to Facilities and Amenities	N/A
Natural Features	
Open Space	
Biodiversity	
Landscaping	

While these improvements are welcomed the proposal still fails to comply with Placemaking Policy PP3. The proposed development is not considered to accord with the principles of Designing Streets, etc. through appropriate design/siting, provision of a positive street frontage with low front hedge boundary treatment, private backs, good connectivity with surrounding housing and landscaping/open space.

The QA highlighted that there was an issue with the majority of housing not fronting the street. While plots 5-8 have been moved, the QA raised concerns with the row of houses next to the open space as to how they could provide a frontage to both the open space and street. The QA suggested that housing with dual frontages should be provided so that surveillance would be provided over both the street and open space. This was seen as a fundamental design issue and does not seem to have been addressed in the revised layout.

The QA also highlighted concern with the open space available. As a result and despite efforts to create a communal kickabout area the space taken up for the additional housing will negatively reduce the size of the overall green space and its ability to function as a neighbourhood park and its ability to adapt to any future recreational needs of the development.

For the above reasons the proposal fails to comply with Policy Policy E5, PP3, IMP1 and H1.

### **Affordable Housing (H8)**

Any proposal that contributes to the housing stock, and especially affordable housing, is acknowledged as being of merit. Appropriate weighting is given to the contribution this proposal would make in meeting the demand for affordable housing.

The site is not within the Council's Strategic Housing Investment Programme (SHIP). Investment in affordable housing is largely dependent on the level of resources from Scottish Government and this is acknowledged within the Local Housing Strategy (LHS). The LHS 5yr supply target in the Elgin Area is 618 affordable houses. The barrier to meeting this target is not land, it is finance. The SHIP forecasts 267 completions in the Elgin Area 2020/2021, with 233 of these in Elgin. Sufficient land is designated in Elgin, including land within the applicant's control that has planning consent, where delivery of affordable housing must be prioritised before consideration is given to eroding open space that was intended to meet the needs of previous development.

The proposal sits within an area where the provision of affordable housing in the wider locality has already been met (and indeed exceeded, by the approvals such as 09/01272/FUL as varied and 14/00398/APP which have increased the amount of affordable house units).

In affording merit to the proposed affordable housing it should not be used as leverage to improve an existing open space where there has been a lack of maintenance and/or investment. Existing open spaces are an important asset for communities and should not be eroded or reduced.

### **Flood Risk (EP7)**

The aim policy EP7: Control of Development within Flood Risk Areas is to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. It also stated that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere.

The proposal site is at risk from surface water flooding and The Moray Flood Risk Management team required further information to be submitted in the form of a Flood Risk Assessment and updated drainage statement along with suitable mitigation measures to address the existing flood risk.

A significant body of objection was received in relation to this issue with a number of objectors submitting images of surface water flood events on the playing fields and surrounding streets. In response to this the applicant's confirmed that this had been a localised and extreme event dating from 2014 prior to full implementation of drainage infrastructure and whilst other development was continuing.

Following consideration of the additional information no objection has been raised and the proposed development complies with EP7.

### **Drainage and Water Supply (Policies EP5, EP10 and IMP1)**

The site is at risk of pluvial flooding. In order to meet the requirements of policies EP5 and IMP1 proposed surface water drainage arrangements would include provision of on-site attenuation measures i.e. filter trenches and storm water drainage etc. designed and sized to ensure that all surface water is discharged onsite via swale to SUDS pond. These arrangements are supported by a Drainage Assessment, relevant calculations and plans and have been assessed by the Flood Risk Management section and have been confirmed as acceptable. As it stands the proposal complies with Policy EP5.

The houses would also connect to the public water supply and foul drainage network, in line with policy EP10.

Scottish Water has provided comments following consultation on this application. The responsibility rests with the applicant to obtain the necessary consents from Scottish Water regarding any connections to the surrounding Scottish Water network.

### **Access and Parking (T1 & T2)**

The proposal (as amended) is considered to be acceptable in terms providing safe access and parking in accordance with Policies T2 and T5. The Transportation Manager has considered all of these issues as part of the application but does not object to the proposal

on road safety, traffic congestion or parking grounds subject to conditions and informative notes being attached to the planning consent if permitted.

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

As from 14 October 2016, the Council has adopted Supplementary Guidance on developer obligations as a material consideration in the determination of planning applications.

Developer Obligations assessment carried out in relation to current Local development plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities and a new primary school at Linkwood. A unilateral instrument of Planning Obligation will be required to secure these contributions.

### **Conclusion and Recommendation**

On the basis of the above assessment and for the reasons stated it is considered that the proposals breach policies IMP1: Development Requirements, PP3: Placemaking, H1: Housing, E5 Open Spaces and should therefore be refused on this basis. This is taking into consideration the benefits that the provision of the affordable housing would have, but which do not outweigh the other departure matters discussed elsewhere in the Observations Section.

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## **APPENDIX**

### **POLICY**

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

#### **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. "

**PP3 INFRASTRUCTURE & SERVICES.**

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and



new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

**b) Development proposals will not be supported where they:**

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

**c) Harbours.**

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

**d) Developer Obligations.**

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

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

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

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District

Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

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

## **DP1 DEVELOPMENT PRINCIPLES.**

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

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

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

### **(i) Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 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.

### **EP5 OPEN SPACE.**

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

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

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

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

Proposals for allotments or community growing on existing open space will be supported where they do not adversely affect the primary function of the space or the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance and a locational requirement has been identified in the Council's Food Growing Strategy.

Consideration will include related aspects such as access, layout, design and car parking requirements.

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

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

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

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

New development must incorporate accessible multifunctional open space of 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/bue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

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

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

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

- Safe and welcoming.
- Good levels of natural surveillance.
- Discourage anti-social behavior.

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

### **iii) Quantity Standard.**

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

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

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

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

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

## **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.

## **ENVIRONMENT/GREEN INFRASTRUCTURE**

Open space that contributes to the environmental amenity of Elgin will be safeguarded from development that is not related to its current use as set out in the table below. Where available the audit site reference from the Open Space Strategy is given in brackets:

### **ENV1: Public Parks and Gardens**

Maggot Wood (EL/OS/011), Doocot Park (EL/OS/014), Biblical Garden (EL/OS/025), Cooper Park (EL/OS/027), Seafield (EL/OS/033), Mayne/Bilbohall (EL/OS/041)

### **ENV2: Amenity Greenspace**

Bain/McMillan Avenue (EL/OS/006), Fairway Avenue (EL/OS/007), Waulkmill Grove (EL/OS/016), Spynie Brae/Covesea Rise (EL/OS/036), Milnfield Avenue (EL/OS/039), Hardhillock (EL/OS/047), Fraser Avenue (EL/OS/052), Pinefield (EL/OS/054), Moray College, The Oaks, Southfield/Thornhill Drive, Linkwood Steading Amenity, Duffus Heights Amenity Area, Kintrae Crescent, Birnie Road

### **ENV3: Playspace for Children and Teenagers**

Greenwards Playspace (EL/OS/002), Glassgreen Playspace (EL/OS/004), Bain/McMillan Avenue (EL/OS/006), Kingsmill Playspace (EL/OS/022), School/Dyke Walk (EL/OS/031), Nelson Square (EL/OS/037), Calcots Crescent (EL/OS/043), McBeath Avenue (EL/OS/044), Reynolds Crescent (EL/OS/045), Esmonde Gardens (EL/OS/049), Ferrier Terrace (EL/OS/050), McIntosh Drive (EL/OS/053), Pinefield (EL/OS/054), Manitoba (EL/OS/056), Bisset Beat, Gleneagles Drive, Kintrae Crescent, Duffus Crescent

### **ENV4: Sports Areas**

Linkwood Playing fields (EL/OS/003), Pinefield Playing fields (EL/OS/009), Deanshaugh (EL/OS/028), Morriston Playing Fields (EL/OS/051), Elgin Golf Course, Driving Range, Elgin Academy/Bishopmill Primary School, Westend Primary School, Seafield Primary School, Eastend Primary School, St Sylvesters, New Elgin Primary School

### **ENV5: Green Corridors**

East Road (EL/OS/008), Sandy Road (EL/OS/020), Thornhill (EL/OS/046), Myreside Circle (EL/OS/048), Reiket Lane (EL/OS/055), Reiket Lane/Ashgrove Road Cycle Path (EL/OS/057), Lossiemouth Road (EL/OS/59), Borough Briggs (EL/OS/060), Lesmurdie

(EL/OS/063), River Lossie Corridor and Cyclepath (EL/OS/064), Linkwood Burn (EL/OS/078), Linkwood Path (EL/OS/079), Old Railway Elgin South (EL/OS/080), Morriston Road (EL/OS/084), Glassgreen

#### **ENV6: Natural/Semi-Natural Greenspace**

Lesmurdie House (EL/OS/010), North East Amenity Land (EL/OS/012), Wards Wildlife Site (EL/OS/013), South and East of Spynie Hospital (EL/OS/018), Marleon/Lesmurdie Wood (EL/OS/021), Lesmurdie Wood (EL/OS/026), Palmers Cross (EL/OS/042), Sherriff/Old Mills (EL/OS/061), Kockmasting Wood (EL/OS/067), Findrassie Woods (EL/OS/068), Quarrelwood (EL/OS/072), Mayne Wood (EL/OS/075), Birkenhill (EL/OS/077), Oakwood/Quarrelwood (EL/OS/081), Bogs of Linkwood, Hallowood/Moss of Barmuckity

#### **ENV7: Civic Space**

Ladyhill (EL/OS/040), Elgin Cathedral

#### **ENV8: Allotments**

Part of ENv4 at Pinefield Playing fields (EL/OS/009)

#### **ENV9: Cemeteries and proposed extensions**

Elgin Cemetery (Linkwood Road) (W), Elgin Cemetery (Linkwood Road) (E), New Cemetery (Elgin South)

#### **ENV11: Other Functional Greenspace**

Hamilton Gardens SUDs.

### **WIDER ENVIRONMENTAL DESIGNATIONS:**

#### **CAT: Countryside Around Towns**

Protects the area around the town from development

#### **CA: Conservation Area**

Elgin High Street Conservation Area, Elgin South Conservation Area

#### **TPO: Tree Preservation Order**

The College King Street, Linkwood, East Road, Reiket Lane, Oakbank Duffus Road, Dunkinty House, Lesmurdie Road, Dunbarney House West Road, Mayne Farm Road, and Pluscarden Road.

#### **SLA: Special Landscape Area**

Quarrelwood; and Spynie

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

### **Primary Policy PP1: Sustainable Economic Growth**

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

### **Primary Policy PP2: Climate Change**

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sq m should address the following:

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected
- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development. This policy is supported by supplementary guidance on climate change.

### **Primary Policy PP3: Placemaking**

All residential and commercial (business, industrial and retail) developments must incorporate the key principles of Designing Streets, Creating Places and the Council's supplementary guidance on Urban Design.

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour

- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles
- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

## **Policy 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 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 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 IMP1: Developer Requirements**

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.



- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

### **Policy IMP2: Development Impact Assessments**

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

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.
- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

### **Policy IMP3: Developer Obligations**

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing

infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

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

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

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

### **Policy H8: Affordable Housing**

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

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

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

### **Policy H9: Housing Mix/Accessible Housing**

Proposals for multiple houses must meet the needs of smaller households, older people and other needs (e.g. extra care housing) identified in the Council's Housing Need and Demand Assessment.

All new residential developments must provide a range of housing of different types and sizes which should reflect the requirements of the Local Housing Strategy. Different house types should be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Housing proposals of 10 or more units will be required to provide a proportion of wheelchair accessible housing. Flexibility may apply on less accessible sites and/or where an alternative acceptable housing mix is proposed.

Off site provision may be acceptable where sites do not have good access to local services and facilities and are not considered appropriate for housing for older people.

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

## Policy 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.

### **ENV3: Amenity Greenspace**

East road verges- A96, Glenmoray Drive, Lesmurdie House, New Elgin Rd, Milnefield Avenue, Reiket Lane, Thornhill Road, A941 verges/Lossmouth Road, Bain/Mcmillan Avenue, Pinefield, Fraser Avenue/Mackenzie Place, A941 verges/Main Street, Fairway Avenue. Policy E5 applies.

### **ENV5: Sports Areas**

Eastend school, Westend School, New Elgin School, Seafield School, Bishopmill School/Elgin Academy, Morriston playing fields, Thornhill playingfields, Tyock/Pinefield playing field. Policy E5 applies.

### **ENV4: Playspace for Children and Teenagers**

Kennedy Place/Spynie Brae, Fairy Park/Bilbohall, Nelson Square (Bishopmill), Lesmurdie, Bain/Mcmillan Avenue, Mcmillan Avenue/Calcots Crescent, Mcbeath Avenue, Birnie Road, McIntosh Drive, Ferrier Terrace, Reynolds Crescent, Marleon Field, Covesea Rise/Findrassie Court, Esmonde Gardens, Pinegrove, Manitoba Avenue, Robertson Drive, Hardhillock/High School View, Greenwards School. Policy E5 applies.

## WARD 07\_17

**19/00794/APP**  
**5th July 2019**

**Section 42 Application to vary condition 3 of Planning Permissions 03/01749/FUL (P/PP/75/96/GE/46) 05/02364/FUL 06/02174/FUL and 10/01154/APP to allow the sale of food and drink at Unit 3 Elgin Retail Park Edgar Road Elgin for Robertson Of Elgin Executive Retirement Fund**

**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
- Advertised for neighbour notification purposes
- 1 representation received

**Procedure:**

- None

**Recommendation**

Grant Planning Permission - Subject To The Following:-

**Conditions/Reasons**

1. Condition 3 as attached to the applications for planning permission as granted under formal decision notices P/PP/75/96/GE/46 (or 03/01749/FUL), 05/02364/FUL, 06/02174/FUL and 10/01154/APP is hereby varied and shall be substituted by the following: "With the exception of Unit 3 (as identified on approved plan (LP-)001) the permission hereby granted is for non-food retailing only, except that up to 300 sqm (public trading area) of food sales will be allowed within the Elgin Retail Park, subject to such floorspace forming no more that 40% of the public trading area of any individual trading unit".

**Reason:** In order to retain the overall non-food retail character and nature of the development granted on the site and to provide for an acceptable scale or amount of food retailing within the Elgin Retail Park which would not have a significant adverse impact on the vitality and viability of Elgin town centre.

**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 TRANSPORTATION MANAGER has commented that:

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

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
(LP-)001	Location Plan



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**19/00794/APP**

**Site Address:**

Unit 3

Elgin Retail Park Edgar Road Elgin

**Applicant Name:**

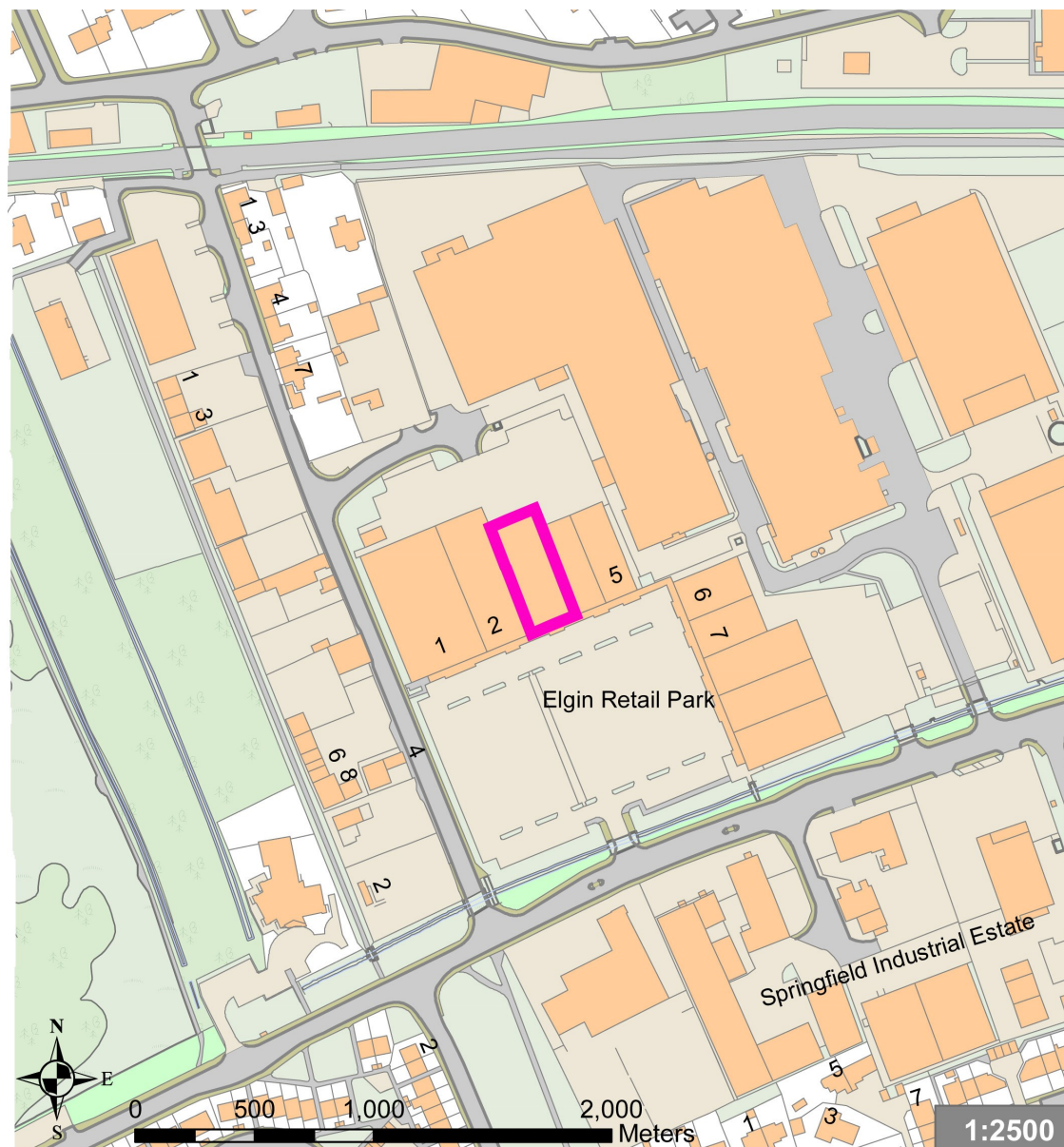
Robertson Of Elgin Executive Retirement Fund

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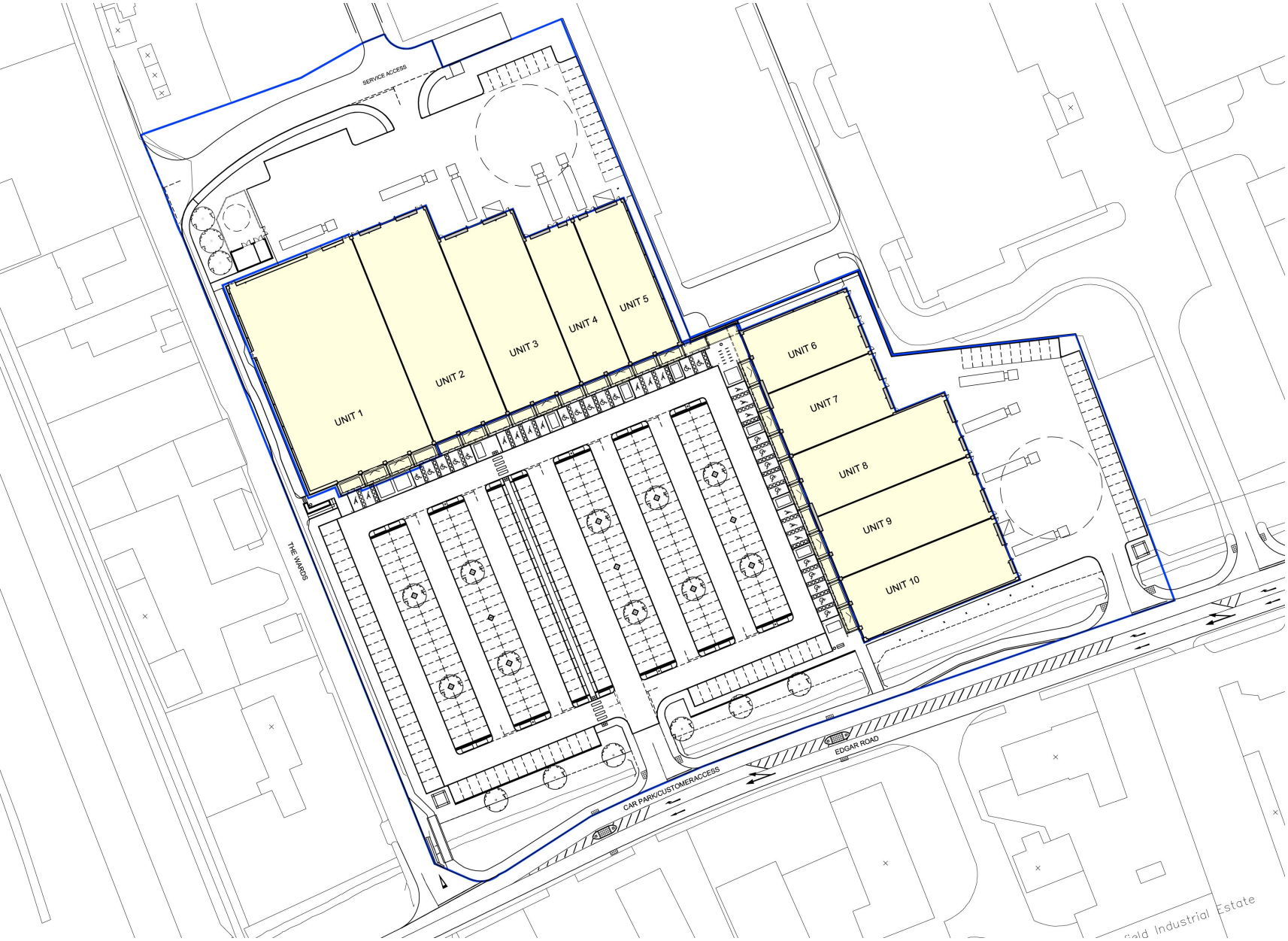
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## Location Plan





Site Layout plan















## PLANNING APPLICATION: 19/00794/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 to vary a condition on each of three applications for planning permission for a retail warehouse development as built at Elgin Retail Park to allow exclusively food retail from unit 3 only.
- The existing conditions allow up to 300m<sup>2</sup> (public trading area) of non-food retail within the Retail Park provided this represents no more than 40% of the public trading area of any individual unit. The proposal is to remove all restrictions in relation to unit 3 only.
- A Retail and Planning Assessment and Parking Assessment have been submitted in support of the application.

### **THE SITE**

- The application site is Unit 3 of the Elgin Retail Park, located on Edgar Road.
- The unit is currently vacant.
- The Retail Park consists of 10 retail warehouse units of varying sizes. The application relates specifically to Unit 3 which is 939m<sup>2</sup>.
- The Retail Park is currently partially occupied with a range of clothes, discount and bulky goods retailers. Unit 4 is now occupied by a gym.
- The Retail Park is adjoined by Walkers factory premises to the east, and various industrial and commercial units to the south, west and north, plus residential premises to the north-west.
- The site is accessed from Edgar Road with car parking area located to the front of the retail units, and rear servicing from The Wards and Edgar Road.
- The site is within the Edgar Road Commercial Centre as identified in the Moray Local Development Plan (MLDP) 2015 and the proposed MLDP 2020.

### **HISTORY**

**19/00336/ADV** - Signs to front elevation gantry entrance sign rear elevation loading bay sign and panels to totem pole - Approved 30/04/19.

**13/00455/APP** - Subdivision of unit for Class 1 and Class 3 and associated internal and external alterations (unit 3) – withdrawn.

**10/01154/APP** - Variation of planning condition 3 of planning permission P/PP/759/96/GE/46, 05/02364/FUL and 06/02174/FUL to read "The planning permission hereby granted is for non-food retailing only, except that up to 300 sqm (public trading only) of food sales will be allowed within the site, subject to such floor space forming no

more than 40% of the public trading area of any individual trading unit – Granted 15/12/2010.

**06/02174/FUL** - Make amendments to approved drawings under 03/01749/FUL and 05/02364/FUL to accommodate reduction in original building footprint and addition of internal unit sub-division walls and entrances together with minor elevational reconfiguration associated with the changes at Edgar Road – Granted 03/11/06. Subject to conditions including condition 3 which reads: “the permission hereby granted is for non-food retailing only”.

**05/02364/FUL** - Erect Class 1 non-food retail warehouse on site at Edgar Road – Granted 12/06/2006 - Subject to conditions including condition 3 which reads: "The permission hereby granted is for non-food retailing only and the development shall be exercised in conjunction with the non-food retail warehousing development approved under application 03/01749/FUL and granted planning permission by the Scottish Ministers by letter dated 28 October 2005".

**03/01749/FUL or P/PP/75/96/GE/46** - Erect non-food retail warehousing (Class 1) at Edgar Road (85,000 sq ft) (7898 sqm) (gross) (5 units) granted (by Scottish Ministers) 28/10/05 – subject to conditions including condition 3 which reads: “the permission hereby granted is for non-food retailing only”.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

None

## **CONSULTATIONS**

**Strategic Planning & Delivery – No objections.**

- A report on the submitted Retail Assessment has been carried out by the Council's consultant.
- The proposal complies with the sequential approach (R2 a) and demonstrates that there will be no unacceptable impact on town centres (R2 b). The Strategic Planning & Delivery Team offered advice on the units considered as part of the Sequential Assessment and these are considered to be acceptable.
- It is accepted that the town centre units identified are unsuitable due to their layout, size or access to parking.
- Since the applicant's carried out their assessment additional units in the St Giles Centre have been marketed but it is acknowledged that they do not meet the minimum floor space requirements, are on multiple levels and do not have direct access to parking.
- No edge of centre units are available and the Edgar Road Commercial Centre is the next sequentially preferable location.
- The Council's Retail Consultant broadly accept the approach taken to assessment of retail impact but have suggest that a slightly higher level of trade diversion is likely. However, they still conclude that the impact is modest.

- On reviewing the Town Centre Health Check The Council's Retail Consultant conclude that the development will not adversely impact on the vitality and viability of the town centre.
- The impact of a different retailer has also been considered and the impacts were found to be similarly modest.
- The MLDP 2020 – Proposed Plan is a material consideration. At its special meeting on 25 June 2019, the Committee approved the submission of the Proposed Plan for examination by Scottish Ministers and agreed the plan policies would continue to be given minimal weight.

**Transportation – No objections.**

- A scoping exercise in relation to trip generation and parking demand was undertaken in consultation with the Council in order to inform the Parking Assessment.
- The submitted Parking Assessment contains a robust assessment of trip generation identifying key times of demand and demonstrates capacity to accommodate this proposal.
- A parking survey and assessments have also been submitted which identified space capacity of 50-57% at times of maximum occupancy.
- Additional trip generation has been estimated at a total of 45 trips during week day pm peak. It is noted that this does not account for shared trips therefore actual trip generation associated with the development is likely to be lower.
- Trip generation associated with the retail park has been assessed as part of previous applications and this proposal will not have a material impact on the surrounding road junctions.
- Transportation are content that there is sufficient capacity in the car park and surrounding road network to accommodate the development both at present and in the event of full occupation of the retail park.
- A further parking assessment would be required for any additional proposed changes of use at the retail park.

**Environmental Health – No objections.**

**Developer Obligations - None sought.**

**OBJECTIONS-REPRESENTATIONS**

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

**Issue:** The Local Plan contains policies to ensure to protect town centres.

**Comment:** The proposal has been fully assessed against the relevant MLDP 2015 policies. The sequential approach has been complied with and the proposal is not considered to adversely impact the vitality and viability of the town centre.

**Issue:** Scottish Planning Policy and the National Review of Town Centres recognises the importance of town centres and promotes town centres as the focus for a mix of uses including retail.

**Comment:** The primacy of the town centre is acknowledged. In line with local and national policy the applicant has been required to submit a retail assessment to demonstrate that convenience retail in this location will not undermine the vitality and viability of the town centre.

**Issue:** A sequential approach must be taken to site selection for retail proposals.

**Comment:** A sequential assessment has been undertaken. None of the town centre sites identified met the minimum requirements for the development and no edge-of-centre sites were identified. The application site is within the Edgar Road Commercial Centre as identified in the MLDP 2015 and as such is the next most sequentially preferable location.

**Issue:** A shopping survey has identified an increase in the number of people shopping in out of town retail developments from 49% in Spring 2014 to 60% in Spring 2019.

**Comment:** These findings are noted but the planning authority does not have knowledge of the format, methods or findings of this survey and as such limited weight can be attached to it.

**Issue:** Changes to the planning permission at this retail park have resulted in a relaxation of conditions that have directly and negatively affected the town centre.

**Comment:** It is acknowledged that successive applications have led to a more permissive set of conditions being in force than those attached to the original consent for the site. Nonetheless the use of the units is still restricted by the conditions in place and the current application only applies to one unit within the retail park. Any proposals to further amend the existing permissions would have to be supported by a further retail assessment.

**Issue:** This development would set a precedent for further applications that would further undermine the town centre.

**Comment:** Each application is considered on its own merits against the relevant policies and other material considerations.

## **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 (03/01749/FUL or P/PP/75/96/GE/46) for units 1-5 in the Retail Park was granted by Scottish Ministers following a Public Local Inquiry. This permission was subject to conditions including condition 3 which restricted all the units to non-food retail only. Planning Permission (05/02364/FUL) was then granted for an additional unit (unit 6). This was also granted subject to a condition (3) which required the development to be exercised in conjunction with the permission for units 1-5 and restricted unit 6 to non-food retail only. The approved plans were reconfigured by application reference 06/02174/FUL. The changes approved under this application included the provision of ten units instead of the previously approved six and a reduction in the overall floor area from 8827m<sup>2</sup> to 7898m<sup>2</sup>. The Retail Park was built in accordance with the plans approved under the 2006 permission. Condition 3 of the 2006 permission restricts all units to non-food retailing only. A further application (10/01154/APP) to vary condition 3 of the three preceding applications (06/02174/FUL, 05/02364/FUL and 03/01749/FUL or P/PP/75/96/GE/46) to allow limited food sales was lodged in 2010. This was granted subject to a condition (3) that permitted food sales on 300m<sup>2</sup> (public trading only) within the Retail Park up to a limit of 40% of the public trading area of any given unit. This condition remains in place across the Retail Park but it is noted that Unit 4 has been converted to a gym and therefore is no longer in retail use. For the avoidance of doubt planning permission would be required to return unit 4 to retail use. At present Home Bargains (Unit 2) is the only unit selling food. Plans submitted to discharge conditions attached to the 2010 permission show 215m<sup>2</sup> of food sales within Unit 2 which represents 20.5% of the public trading area of this unit. Should the current application be approved the 300m<sup>2</sup> would continue to apply across the other units within the Retail Park (with the exception of unit 4 which is no longer in retail use).

### **Compliance with Retail Policy (R2, Edgar Road Commercial Centre)**

Policy R2a requires retail development outwith the town centre to comply with the sequential approach which requires that locations for new development be considered in the following order of preference: town centre sites, edge of centre site, other commercial centres identified in the MLDP, derelict or vacant land in out of centre locations that are easily accessible and out of centre sites that are accessible. Policy R2b requires proposals to demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of town centres. Parts c-e of the R2 policy do not apply in this case as the site is within an established retail park.

### ***Sequential Approach***

The submitted retail assessment includes a sequential assessment the scope of which was agreed with the Council. The minimum requirements identified for the proposal are

929 m<sup>2</sup> with limited floor plate obstructions and easy direct access to parking for trolley shoppers.

A number of town centre locations have been identified and assessed as follows.

**77-83 High Street (formerly Poundland).** This unit is large enough but does not lend itself to trolley to car shopping of the type proposed here.

**Units within the St Giles Centre.** These units are more suitable for comparison retail and would not allow the shelving and aisle layout required for this type of retailing. Since the applicant's assessment was carried out additional units within the St Giles Centre have been marketed however, the Strategic Planning & Delivery Team have advised that these units would not be suitable either due to their size and layout.

**51 South Street (formerly Junners).** This site is unsuitable as the floor space is only 815m<sup>2</sup> and is spread over two floors with very low ceilings. Furthermore there is no easy access for trolley to car shopping.

**57 – 61 South Street.** This site is too small at 743m<sup>2</sup> and extends over three floors. There is no suitable access for trolley to car shopping.

No edge-of-centre sites have been identified. A site within the Edgar Road Commercial Centre such as the application site is the next sequentially preferable location. The information supplied is sufficient to demonstrate that there are no sequentially preferable sites available that meet the minimum requirements for the development. The sequential approach is therefore satisfied and the proposal accords with policy R2 (a).

### ***Impact on the Town Centre***

Policy R2 (b) requires that there is no unacceptable impact on the vitality or viability of the town centre. The retail assessment includes an assessment of the impact of the development on Elgin town centre. The approach taken by the applicant takes account of the modest scale of the proposed change and the fact that the unit benefits from planning permission for non-food retail despite being vacant at present. The Council's retail consultant considers this to be a reasonable approach however, in their view the likely retail impacts will be slightly different from those identified by the applicant.

The council's retail consultant suggests that a simple comparison between existing and proposed use indicates a trade diversion of £1.13m. The Council's retail model shows that Elgin town centre has a total turnover of £118.4m (2018 prices) of which £53.5m is for convenience goods and £64.9m for comparison goods. The proposal therefore represents a loss from the town centre of 1% for all goods. It is noted that the effects are different for convenience and comparison goods. For convenience goods the loss would be 5.5% with the impact chiefly felt by Tesco and Farmfoods. It should be noted here that the purpose of the assessment is to consider the impact on the town centre overall and not any individual business. For comparison goods there would be a 2.8% increase in trade for the town centre as Unit 3 would cease to be available as an out of centre location for comparison goods. The impacts identified are relatively modest and there is some potential benefit to the town centre in relation to comparison goods sales.

The retail consultant notes that if approved the application would permit any convenience retail operator and has undertaken an additional assessment of the impacts of a metro style supermarket which is considered to be the most likely alternative format to operate

from the proposed unit should the current applicant or a similar occupier choose not to take on the unit. Whilst higher impacts are predicted compared to the currently proposed operator the overall impacts are considered to be modest and would not be expected to have a significant impact on town centre vitality and viability.

Notwithstanding any differences in the assumptions and interpretations in the assessment, the Council's retail consultant has concluded that the proposal to amend the condition will not have a significant adverse impact on the vitality and viability of Elgin town centre. On this basis the proposal is considered to comply with policy R2b.

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

The application is supported by a Parking Assessment the content of which was scoped by with the Council's Transportation Section. The Transportation Section has confirmed that the submitted report represents a robust assessment of the proposal. There were 373 parking spaces within the car park. In terms of parking accumulation and demand the assessment estimates that maximum parking demand would occur between 1200-1300 on a weekday and between 1400-1500 on a weekend. The assessment found that at these peak times demand could be as high as 109 and 119 spaces respectively during these times there would be 264 and 254 spaces remaining available for use. The assessment is further backed up by a parking survey undertaken within the car park which highlights a maximum weekday and weekend occupancy of 160 and 185 vehicles respectively at present. This represents 43% occupation during the week and 50% at the weekend. A further assessment based on a mixed use development at the retail park concluded in these circumstances there would be 21% spare capacity. In all cases, the assessment demonstrates that there is spare capacity to accommodate the demand associated with the current proposal. The submitted assessments and survey demonstrate that there is sufficient capacity in the car park to accommodate the development both at the current level of occupation and in the event of full occupation of the Retail Park. The parking provision is acceptable and in accordance with policy T5.

The impact on the existing road network has also been considered. For the proposed change of use an additional 45 vehicle trips have been estimated weekday for the pm peak period. It is noted that this is a 'worst case scenario' and does not account for any shared trips (trips that would be made on the road network anyway). In practice, new trip generation associated with this development is likely to be much lower. The Transportation Section has also advised that the impact of the Retail Park on the wider road network has been assessed in relation to previous applications and a Developer Obligation was provided. The current proposal is not considered likely to have a material impact on nearby junctions. No mitigation or modification of the road network has been sought. The proposal accords with policy T2.

### **Conclusion**

Following the submission of retail information and analysis (by the applicant's agent and the Council's retail consultant) the proposal is considered to comply with policy R2a and R2b as the requirements of the sequential approach are satisfied and the retail analysis demonstrates that there will be no unacceptable impact on the vitality and viability of the town centre. In this instance it is considered that allowing unrestricted food retail from one unit within the retail park will not detract from the character, function and role of the Edgar Road Retail Park or adversely impact on the town centre. It is recommended that the application is approved and the conditions of the previous planning permissions are varied as set out in the recommendation.

**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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## **APPENDIX**

### **POLICY**

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

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

##### **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 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 R2: Out of Centre Development of Retail, Commercial and Leisure Proposals**

Outwith town centres retail development proposals (including extensions) and other uses generating significant footfall such as leisure or public buildings, must:

- a) comply with the sequential approach which requires that locations for new development be considered in the following order of preference:
  - Principal and Other Town Centre Sites;
  - Edge of Town Centre Sites;
  - Other Commercial Centres identified within the Table 1 "Retail Centres and Roles";
  - Derelict or vacant land in out of centre locations that are or can be made easily accessible by pedestrians and a choice of modes of transport;
  - Out of centre sites in locations which are, or can be made, easily accessible by pedestrians and a choice of modes of transport;
- b) demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, this being demonstrated where appropriate, by a Retail Impact Assessment,
- c) meet any requirements for linking development to existing infrastructure including roads access, parking, as demonstrated by a Transport Assessment, sewerage, water run-off and Sustainable Urban Drainage Systems (SUDS),

- d) provide specific opportunities for access by public transport, pedestrians, cyclists and the disabled, and
- e) contribute positively to the built environment of the area by having a high standard of design.

Proposals outwith settlement boundaries will not be acceptable, with the exception of specialist retailing associated with tourism which should be considered against Policy R3 and roadside facilities which should be considered against Policy T3. Small shops intended to meet the convenience needs of a local neighbourhood should be considered against Policy R3.

### **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.

### **CC: Commercial Centre - Edgar Road**

It is recognised that Edgar Road is an established retail area and this area is identified as a Commercial Centre within Table 1 "Retail Centres and Roles" within Policy R2. This is the preferred location for bulky good and comparison outlets if no town centre or edge of town centre sites are available. The area is currently characterised by convenience, bulky goods, and comparison retailing. This area has helped to maintain the area's competitiveness with Inverness and Aberdeen. A flood risk assessment may be required for any planning application within this area.

## **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.

## **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, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

## **DP7 RETAIL/TOWN CENTRES**

### **a) Town Centres.**

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

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

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

### **b) Outwith Town Centres**

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

a) Demonstrate that no sequentially preferable sites are available. Locations will be considered in the following order of preference;

- Town centres (as shown on settlement maps).
- Edge of centre.
- Commercial Centres (as shown on settlement maps, CC).
- Brownfield or OPP sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.
- Out of centre sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.

b) Demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the network of town centres (Table 6), where appropriate by a Retail Impact Assessment.

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

### **c) Neighbourhood Retail.**

Small shops that are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary will be supported. Depending on scale, proposals may be required to demonstrate that they will not have an unacceptable adverse impact on the vitality and viability of the network of town centres (Table 6), by a Retail Impact Assessment or Retail Statement. Within a neighbourhood one unit of up to 400m<sup>2</sup> designed to meet the day to day convenience needs of the neighbourhood will be supported. Other small units of up to 150m<sup>2</sup> that contribute to creating a mix of uses in a neighbourhood centre/hub will be supported. This could include small retail uses (Class 1 non-food), financial and professional services (Class2) and cafes and small restaurants (Class 3). Neighbourhood hubs/centres should aim to contribute to the sense of community and place, the sustainability of an area, reduce the need to travel for day to day requirements and provide adequate parking and servicing areas.

Change of use of established or consented neighbourhood retail units will only be supported where it can be demonstrated that active marketing has failed to find a retail use for the premise. For a change of use to be considered, the premises must have been vacant and actively marketed for a minimum of three years at an appropriate market rent/value. Where the unit is part of a consent for wider development, the three year marketing period will be counted from the completion of the development as a whole i.e. change of use of a retail unit will not be considered half way through completion of a development or in the three years after the completion of the whole development.

### **d) Ancillary Retailing.**

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

### **e) Outwith Settlement Boundaries.**

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

Table 1 Moray Town Centres

## **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.

**CC Edgar Road Commercial Centre**

**Suitable Uses/Role of Centre**

- To meet the demand for comparison and bulky goods retailing where these cannot be accommodated within the town centre or edge of centre. Help stem leakage outside the region.
- A Flood Risk Assessment may be required for planning applications in this area.





**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON  
8 OCTOBER 2019**

**SUBJECT: OVERNIGHT PARKING OF MOTORHOMES ON CAR PARKS**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND  
FINANCE)**

## **1. REASON FOR REPORT**

- 1.1 To inform the Committee of the legislative background and control regarding overnight parking of motorhomes on car parks and how numbers have increased across a number of locations in Moray without consent. To consider adopting revised standards for site licences issued under the Caravan Sites and Control of Development Act 1960 for proposed sites that need planning permission for the overnight parking of motorhomes with on board facilities at car parks.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority.

## **2. RECOMMENDATION**

### **2.1 It is recommended that the Committee:**

- (i) **note the legislative background to the overnight parking of motorhomes and the current mechanisms for controlling the use in existing car parks;**
- (ii) **note the approved Moray Council standards in Appendix 1 for Holiday Caravan Sites that currently apply to all sites; and**
- (iii) **agree the revised standards in Appendix 2 with immediate effect to be applied to car parks that provide areas for overnight parking for motorhomes with on board facilities (this is separate from the need to obtain planning permission).**

### **3. BACKGROUND**

- 3.1 Over recent years there has been a steady increase in the use of motorhomes with pressure for sites across Moray and the rest of Scotland being used for overnight parking. The current position within Moray is that there are a number of locations both in private and public ownership that are being used, some on an ad hoc basis mainly during the summer months and others on a more regular basis as a stopping off destination. Many of these sites are in sensitive coastal locations which are attractive to tourists using Motorhomes.
- 3.2 One of the reasons that has contributed to the increase in parking of motorhomes in a number of unregulated locations is that many of the established caravan and camping sites have reduced (in some cases total removed) the space that they previously made available for touring campervans, caravans and tents to use.
- 3.3 At this current point in time the only sites within Moray that are authorised are those that either have planning permission and a site licence or those that are exempt under the Caravan and Control of Development Act 1960 (see para 4.3 below for exemptions).
- 3.4 The current Moray Council standards adopted for Holiday Caravan sites (**Appendix 1**) set out a number of conditions requiring the site to provide toilet facilities, showers, water supply, and electricity etc. It is considered that some of these requirements would be too onerous when being applied to car parks used by motorhomes with their own on board facilities merely as an overnight stopping off point.

### **4. LEGISLATIVE BACKGROUND**

- 4.1 Planning permission is required for “Development” unless a deemed planning permission is granted by virtue of the provisions set out in the general permitted Development (Scotland) Order 1992. Section 26 of The Town and Country Planning (Scotland) act defines ‘development’ to mean “the carrying out of building, engineering, mining or other operations in, on over or under land, of the making of any material change in the use of any buildings or other land...”
- 4.2 The use of land as a ‘Caravan Site’ is considered to be a ‘Change of Use’ of land. If building and or engineering works are required to make land suitable for use as caravan site (i.e. levelling, creation of access, constructions or alterations of buildings, provision of foul and surface water drainage) then these works require planning permission. A Building Warrant is also likely to be required for the provision of a septic tank and construction of any buildings.
- 4.3 Part 1 – section 1(4) of the 1960’s Act defines a caravan site as “... land on which a caravan(s) is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan(s) is so stationed.” The parking of motor homes and their use for human habitation falls within the scope of this definition.

- 4.4 The Caravan and Control of Development Act 1960 prohibits the use of land as a caravan site unless the occupier holds a licence issued by the local authority. There are some exemptions, and the main ones are:
- A caravan sited within the curtilage of a dwelling and its use is incidental to the dwelling;
  - A single caravan sited for not more than two consecutive nights for a maximum of 28 days in any 12 months;
  - Sites occupied by exempted organisations such as the Caravan Club; and
  - Site of up to 5 caravans certified by an exempt organisation and which are for members only.

## **5. PROPOSED STANDARDS FOR SITES SOLELY FOR THE PARKING OF MOTORHOMES**

- 5.1 A review of the current standards that are applied to all caravan sites has been undertaken by the Principal Environmental Health Officer and is in **Appendix 2**. This more relaxed set of standards is proposed taking into account that motorhomes are generally equipped with on board facilities including water, electricity run off a battery and a chemical toilet.
- 5.2 The standards which are set out have been designed to provide a pragmatic approach to the current growing trend in motorhome parking whilst providing adequate standards of amenity, facilities to users and more importantly to protect their health and safety. It is acknowledged that this approach requires the owners of car parks to operate a regulated and managed car parking area to an acceptable standard. It will also require motorhome owners to act responsibly and respect the surrounding environment.
- 5.3 These standards are entirely separate to the requirements that planning applications will be assessed against i.e. relevant policies set out in the Adopted Moray Local Development 2015 and the Emerging Local Development Plan 2020. A key material consideration in assessing any future planning applications will be the need to ensure that any proposal does not have an adverse impact on the existing character of the site and its surroundings. Many of the locations that are attractive to motorhome overnight parking are in open and sensitive areas where there is an existing high level of amenity.
- 5.5 Any future applications that come forward will be assessed on their individual merits but it will be important to control the level and impact by the imposition of planning conditions. These conditions would need to restrict the number of motorhomes with on board facilities and the length of stay (restricted to no more than a “one” overnight stop). All planning applications will be for a temporary period to allow sites to be closely monitored for their impact on the surrounding area.

## **6. SUMMARY OF IMPLICATIONS**

### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The revised standards for motor homes will assist in promoting economic development and contribute to priorities for a growing, diverse and sustainable economy.

### **(b) Policy and Legal**

Caravan Sites and Control of Development Act 1960, Town and Country Planning (Scotland) Act 1997, Moray Local Development Plan (MLDP) 2015 and Moray Local Development Plan (MLDP) 2020.

### **(c) Financial implications**

There may be limited additional income generated from the fees associated with the submission of planning applications.

### **(d) Risk Implications**

Without taking a pragmatic approach to regulating and controlling the growing trend in overnight parking of motorhomes there is a risk to the amenity of a number of areas.

### **(e) Staffing Implications**

None.

### **(f) Property**

None.

### **(g) Equalities/Socio Economic Impact**

Not required.

### **(h) Consultations**

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager, the Equal Opportunities Officer, Paul Connor (Principal Accountant), the Strategic Planning & Delivery Manager, the Transportation Manager, the Environmental Health and Trading Standards Manager, Russell Anderson (Principal Environmental Health Officer), the Principal Building Standards Officer, the Planning Enforcement Officer and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

## **7. CONCLUSION**

- 7.1 The use of sites for the overnight parking of motorhomes is growing in number and is currently unregulated. Approved standards for holiday caravans sites are considered to be a barrier to bringing forward regulated sites supporting tourism in Moray whilst protecting the**

**existing amenity of sensitive locations. The revised standards for overnight parking for Motorhomes with on board facilities in Appendix 2 are recommended to be approved for future use with immediate effect. These do not replace the need for planning consent but sit alongside any consent.**

Author of Report: Beverly Smith, Development Management and Building Standards Manager

Background Papers: Appendix 1 & 2







**Caravan Sites and Control of Development Act 1960**

**STANDARDS APPROVED BY THE MORAY COUNCIL FOR HOLIDAY CARAVAN SITES**

**1. Site Boundaries**

The boundaries of the site shall be clearly discernible on the ground (for example, by fences, indication posts etc.). If holiday and residential caravan sites adjoin, the boundaries between them must be clearly marked. Unless this demarcation is clear, the residential standards should apply throughout.

**2. Spacing**

The minimum distance between any two caravans to be 6.1 metres (20ft.). The minimum distance from any caravan to a carriageway within the site to be 3.05 metres (10ft.). The minimum distance between any caravan and site boundary to be 3.05 metres (10ft.). In order to avoid any doubt in regard to measurement, the word "distance", used in the paragraph, shall be interpreted in the sense of "clearance".

**3. Hard Standing for Caravans**

If the caravans are to remain permanently, or throughout the season on the same stance, and the caravan is complete with W.C., sink etc., and is connected to a drainage system, the caravan shall stand on a hard standing of concrete or tarmac construction which should extend over the whole area occupied by the caravan and should project at least 0.91 metres (3ft.) outwards from the site of the caravan in front of its entrance. Where the caravan will not be permanently sited, it will be sufficient for the Council to be satisfied that the surface on which the caravans rest can be maintained in a clean and tidy condition.

**4. Carriageways and Footpaths**

Main arterial carriageways shall be surfaced with concrete or tarmac to carry vehicles with a minimum laden weight of 12.5 tonnes and be not less than 3.7 metres wide with passing places as necessary and turning places at the end of cul-de-sacs. The minimum clearance height should be 3.7 metres. On the approaches to communal buildings or on any other heavily frequented parts of the site, footpaths of paved, concrete or tarmac construction and not less than 0.76 metres (2ft. 6ins.) wide should be provided.

**5. Car Parking**

Cars belonging to caravan occupants will normally be parked by their caravans and the prescribed spacing allows for this. A car park should be provided near the entrance sufficient for visitor's cars, mobile shops etc. and for occasional use by occupant's cars. This should be of concrete or tarmac construction large enough to take one car for every three caravans on the site.

## **6. Water**

Each site shall be provided with an adequate supply of pure and wholesome water under reasonable continuous pressure. Water supply points in the form of standpipes should be provided at convenient intervals on the site. The standpipe should not be less than 12.7 millimetres (½in.) in diameter and terminate in a draw-off tap at a reasonable level discharging with adequate pressure over a disposal pit consisting of a concrete slab with raised concrete surround to a trap gulley connection to the drainage system. The maximum distance between a caravan and its water point likely to be "convenient" will vary according to the user. Except on the small and more remote sites, no caravan shall be sited more than 45.72 metres (50yds.) from a water supply point. The distance may be reduced to 18.29 metres (20yds.) on larger sites where practicable and reasonable.

## **7. Drainage**

The site and every caravan, where appropriate, shall be provided with a drainage system, adequate for the complete and hygienic disposal of rain, surface and foul water. The drainage system must be approved by the Council and, wherever reasonable and practicable, lavatory drainage shall be discharged into a public sewer. Where a public sewer is not readily available for this purpose, such drainage shall be disposed of as prescribed by the Council. Provision shall also be made for the disposal of night soil from chemical closets to the satisfaction of the Council.

## **8. Sanitation**

- a) Sanitary and washing facilities shall be provided on the following scale:-

**W.C.s** - 1 per 15 caravans or part thereof for men, and 2 per 15 caravans or part thereof for women.

**Urinals** - 1 per 15 caravans or part thereof (unless there is an extra W.C. provided in lieu).

**Washbasins** - There shall be a washbasin for each W.C. required including urinals provided in lieu of W.C.s with hot and cold water.

**Showers or Baths** - 1 per 20 caravans or part thereof for each sex with hot and cold water.

Provision shall be made in the women's toilet accommodation for the hygienic disposal of sanitary dressings.

- b) Laundry facilities shall be provided in a separate part of the toilet block or a separate building. These shall take the form of deep sinks having hot and cold water on the scale of 1 per 20 caravans or part thereof. A drying green should be provided which should be near to the laundry facilities.

All the above facilities shall be provided in waterproof buildings of durable construction and with a suitable internal finish to the satisfaction of the Council.

Page 380

## **9. Litter and Refuse Disposal**

Adequate refuse receptacles of a size and number approved by the Council shall be provided on the site. If necessary, a refuse compound, as approved by the Council, shall be provided for the storage and subsequent uplifting of refuse by the Council's Cleansing Service.

## **10. Fire Precautions**

Fire points and fire fighting equipment shall be provided as prescribed by the Local Authority after consultation with the Firemaster.

**11. Recreational Open Space**

Reasonable space shall be available on the site or nearby for recreational purposes.

**12. Maintenance**

The site, caravans and all facilities upon it to be maintained in good condition.

**13. Lighting**

All communal buildings must have adequate internal artificial lighting. In addition, it must be possible for residents to see their way about the site at night and, in particular, to find their way easily to the communal buildings. There should be sufficient external lighting to achieve this.

**14. Electric**

All electric cables from the Hydro Board meter to caravans must connect to an approved outlet at each caravan hard standing. An annual Certificate shall be forwarded to the Council, signed by a competent Electrical Engineer, that the electrics on the site comply with the I.E.E. Regulations.

**15. Definition of a "Holiday" Site**

The period of use of a "holiday" caravan site shall be regarded as extending from 1st April to 31st October each year.

**NOTE:-** The foregoing standards were approved at a General Meeting of the Council held on 25th May, 1977 on the understanding that the standards are regarded as a General Guide and that each application for a licence for a caravan site will be considered and dealt with on its merits.



**APPENDIX 2****Caravan Sites and Control of Development Act 1960****Standards Approved by the Moray Council For overnight Parking of Motorhomes****1. Spacing & Marking of sites**

The minimum distance between any two motorhomes shall be 6.1 metres. Post shall be erected marking out parking bays as prescribed by the Council.

**2. Maximum number of Motorhomes**

The number of Motorhomes permitted should correspond with the numbers that have been granted planning consent by the local authority.

**3. Surfacing**

Site shall have appropriate hard surfaces where existing or permeable hard surface where proposed to the satisfaction of the Council.

**4. Chemical Disposal Points**

Provision shall be made for the disposal of night soil from chemical closets to the satisfaction of the Council and to the satisfaction of Scottish Water where appropriate.

**5. Litter & Refuse Collection**

Adequate refuse bins of a size and number approved by the Council shall be provided on the site.

**6. Fire Precautions**

Fire points and fire fighting equipment shall be provided as prescribed by the Local Authority after consultation with the Firemaster.

**7. Lighting**

Low level lighting shall be provided as prescribed by the Council.

**8. Signage**

Signage shall be provided covering locations of nearby toilets, public water, fire points and emergency contact details for fire etc. Signs shall state no open fires permitted.

Notes: There shall be no electric hook ups proposed, no caravans or tents permitted.






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**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON  
8 OCTOBER 2019**

**SUBJECT: MORAY LOCAL DEVELOPMENT PLAN 2015 - ANNUAL  
MONITORING REPORT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND  
FINANCE)**

**1. REASON FOR REPORT**

- 1.1 This report asks the Committee to consider and approve the Moray Local Development Plan (MLDP) Annual Monitoring Report 2019.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

**2. RECOMMENDATION**

- 2.1 **It is recommended that the Committee considers and approves the Monitoring Report as set out in Appendix 1.**

**3. BACKGROUND**

- 3.1 Following a report to a special meeting of this Committee on 24 June 2015 (paragraph 5 of the minute refers), it was agreed that an annual monitoring report providing information on the MLDP Action Programme, Housing and Employment Land Audits and demographic changes would be submitted to Committee (paragraph 5 of the minute refers). It was also subsequently agreed at a meeting of this Committee on the 19 April 2016 that an annual Local Review Body (LRB) report be prepared and reported to the Committee as part of the MLDP Monitoring Report (paragraph 10 of the minute refers).
- 3.2 No Annual Monitoring Report was prepared in 2018 due to work pressures in preparing the MLDP 2020. Future Annual Monitoring Reports will be more delivery focused and consist of a review of the Delivery Programme which will accompany the MLDP 2020.

#### 4. **ANNUAL MONITORING**

4.1 The annual MLDP Monitoring Report in **Appendix 1** provides:

- An overview of demographic changes and projections;
- An overview of the Housing and Employments land Audits;
- An update on policy documents and Supplementary Guidance;
- An overview of progress on development sites in all settlements including actions to be undertaken; and
- A review of LRB cases.

4.2 On June 30 2018, the population of Moray was 95,520 which was a decrease of 0.3% from 2017. The latest population projections from the National Records of Scotland (NRS) project that between 2018 and 2026 Moray's population is expected to increase from 95,520 to 100,251 which is an increase of 4.4%. This long term projection has significantly changed from previous projections in the 2017 Monitoring Report which suggested that Moray's population may flat line or even decrease over this long term period.

4.3 A breakdown in population group shows that between 2018 and 2026 the 18 to 26 age group is expected to see the largest percentage decrease (-10%) and the 75+ age group is projected to see the largest percentage increase (+34.2%). It also suggests that retaining young people will be a future challenge. This highlights that Moray is facing an ageing population which will have implications for local service provision such as health care facilities for the elderly, education, and housing. It could put strain on housing supply and house type provision such as the need for more accessible housing to meet these new needs and requirements.

4.4 The Housing Land Audit was reported to this Committee on 21 May 2019 (paragraph 7 of the minute refers) and shows an effective housing land supply of 4,189, meeting Scottish Planning Policy (SPP) requirements to have a five year effective supply. The number of completions decreased from 382 in 2017 to 312 in 2018. Projected completions are estimated to increase over the next couple of years as sites within MLDP 2015 are built out and with the release of land for housing at Elgin South and Bilbohall. Completions have generally reflected the settlement hierarchy, with completions highest in the primary centre of Elgin, followed by the second tier settlements of Forres and Buckie, coastal villages east of the Spey, and Speyside. Development rates in Keith and Speyside continue to be low and Officers are looking at how existing sites can be made more effective including a project, which aims to address issues highlighted in the "Stimulating Housing in the Highlands and Islands" report published in September 2017.

4.5 The Employment Land Audit was reported to this Committee on 21 May 2019 (paragraph 6 of the minute refers). The Employment Land Audit 2019 identifies that as of 1 January 2019 there was 153.4 hectares of land (net) within the Established Land Supply. This is a decrease of 0.91 hectares since 2018 due to several sites being built out and a windfall site at Thomshill being removed due to a lapsed planning consent. 79.84 hectares (net) across 15 sites is classed as marketable/effective which is a decrease of 0.43 hectares



and two sites since 2018. This is due to construction completed at March Road SE (I3) Buckie, land under construction at Chanonry Elgin (I2), completion of a windfall site at West Whins Findhorn, occupation of yard space at Waterford Forres (I3) and occupation of yard space at Rothes Back Burn (I1). However, there continues to be a shortage in the number of immediately available sites. The emphasis on employment land is within the five main settlements with more limited supply in other towns with a limited supply of serviced sites in Forres and Speyside. This is being addressed through large new employment land releases in the MLDP 2020.

- 4.6 The 2017 Monitoring Report highlighted that a Quality Audit process was introduced to assess planning applications against the primary placemaking policy with the aim of raising urban design standards. The Quality Audit process involves a multi-disciplinary team of Council Officers from Development Plans, Development Management, Housing, and Transportation assessing proposals and working with developers to resolve design issues. Since the 2017 Monitoring Report this multi-disciplinary team has been expanded to include officers from Moray Council's Flood Risk Management Team and Scottish Natural Heritage. This approach has improved collaborative working across sections as well as improving the design of layouts by being able to embed innovative drainage solutions and improve biodiversity from the outset. An overview of how the process has improved the quality have layouts is included in **Appendix 1**. A revised Quality Audit was approved at a meeting of this Committee on 26 March 2019 (paragraph 10 of the minute refers) and will replace the existing Quality Audit on adoption of MLDP 2020.
- 4.7 Since the 2017 Monitoring Report work has been on going on a number of key policy areas, documents, and Supplementary Guidance. This can be summarised as follows;
- Work has continued to progress on the programme of masterplans and development briefs with the approval of the Elgin South, Bilbohall, Kinloss Golf Course, and Dallas Dhu masterplans. Five development briefs have been approved in Aberlour, Burghead, Elgin, Hopeman, and Forres;
  - Completion of the Open Space Strategy which provides a strategic vision for the provision, development, maintenance and management of open space;
  - Completion of the Woodland Strategy which identifies the key issues affecting forestry in Moray and highlights the opportunities that exist across the sector;
  - Adoption of updated Moray Onshore Wind Energy Guidance following approval by Scottish ministers;
  - Updated Developer Obligations Supplementary Guidance;
  - Completion of the Elgin Transport Strategy;
  - Continue to develop a programme of youth engagement and on the work done during the LDP consultation;
  - Officers from Planning and Education are working together to identify the school estate requirements to 2035 to align with the LDP and anticipated growth; and

- Planning officers are working closely with officers from NHS Grampian to identify future healthcare requirements for GP's, dentists and pharmacy facilities to ensure that the necessary land requirements are available.
- 4.8 Since June 2017 the LRB reviewed 44 cases which is 45% higher than was reported in the 2017 Monitoring Report. This is due to the period under consideration being longer than that which was part of the 2017 Monitoring Report. Analysis shows that there was a 75/25% split between reviews being dismissed (refused) and upheld (approved). Housing in the Countryside applications still account for the majority of LRB cases (55%).
- 4.9 The Report provides an update on the levels of Developer Obligations that the Council received in 2017 and 2018. The table in **Appendix 1** shows that over this period a total of £6,213,246.00 was received in Developer Obligations and legal agreements.
- 4.10 The Report also provides an update on key policy areas such as housing in the countryside, open space, biodiversity, placemaking, and development in woodlands and how these have been incorporated into the next Local Development Plan. Future monitoring reports will provide updates on implementation of the Delivery Programme and a greater focus on policy outcomes and impacts.

## **5. SUMMARY OF IMPLICATIONS**

### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The MLDP plays a key role in supporting and facilitating the Community Planning Partnerships' priorities for a growing, diverse and sustainable economy, building a better future for our children and young people and empowering and connecting communities.

### **(b) Policy and Legal**

Preparation of the MLDP is a statutory responsibility for the Council.

### **(c) Financial implications**

None.

### **(d) Risk Implications**

The risk of not monitoring the MLDP would be an out of date evidence base being used for preparing the next MLDP. There could also be a failure to provide an effective housing and employment land supply. The Planning Bill (Scotland) which has recently been passed by the Scottish Parliament places greater emphasis upon the evidence base for LDP's, including the requirement for an "Evidence Report" to be prepared at the outset of the MLDP process.

**(e) Staffing Implications**

Preparing the MLDP and monitoring its performance are part of the workload of the Planning and Development section.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

An Equality Impact Assessment is not needed as the report is to inform the Committee on monitoring of the MLDP only.

**(h) Consultations**

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager, the Equal Opportunities Officer, Paul Connor (Principal Accountant), and Lissa Rowan (Committee Services Officer) have been consulted and their comments incorporated into the report.

**6. CONCLUSION**

**6.1 The MLDP Annual Monitoring Report provides an evidence base which can be used to influence future policy documents and the implementation of the MLDP 2020. The 2019 Monitoring Report identifies that Moray's long term population will continue to rise with demographic analysis showing that an ageing population will have implications for service and housing provision.**

**6.2 The report shows that good progress has been made on the preparation and completion of Supplementary Guidance and processes to help deliver development including a programme of masterplans and development briefs, Open Space Strategy, Woodlands Strategy, Wind Energy, Developer Obligations and Infrastructure Delivery Group. The report highlights that development interests continue to be focused in Elgin, Buckie and Forres, with lower activity in Keith. The Report shows the limited activity within third tier settlements particularly in Speyside and Coastal areas.**

**6.3 The Report identifies that there is a shortage of serviced employment land across Moray. The Report recognises that good progress is being made to improve urban design standards in new developments through the continued use of the Quality Audit process.**

Author of Report: Keith Henderson (Planning Officer), Darren Westmacott (Planning Officer)

Background Papers:

Ref:



**Monitoring Report 2019****Introduction**

This monitoring report is intended to examine the performance of the Moray Local Development Plan (MLDP) 2015 and provide an update on land use planning issues. The monitoring report provides:

- An update on population statistics and projections;
- An update on progress of actions set out within the MLDP Action Programme including an update on development sites in all settlements and key policy documents;
- An update on Developer Obligations; and
- A review of Local Review Body (LRB) cases.

The monitoring report also provides an evidence base for LDP reviews.

**Demographics**

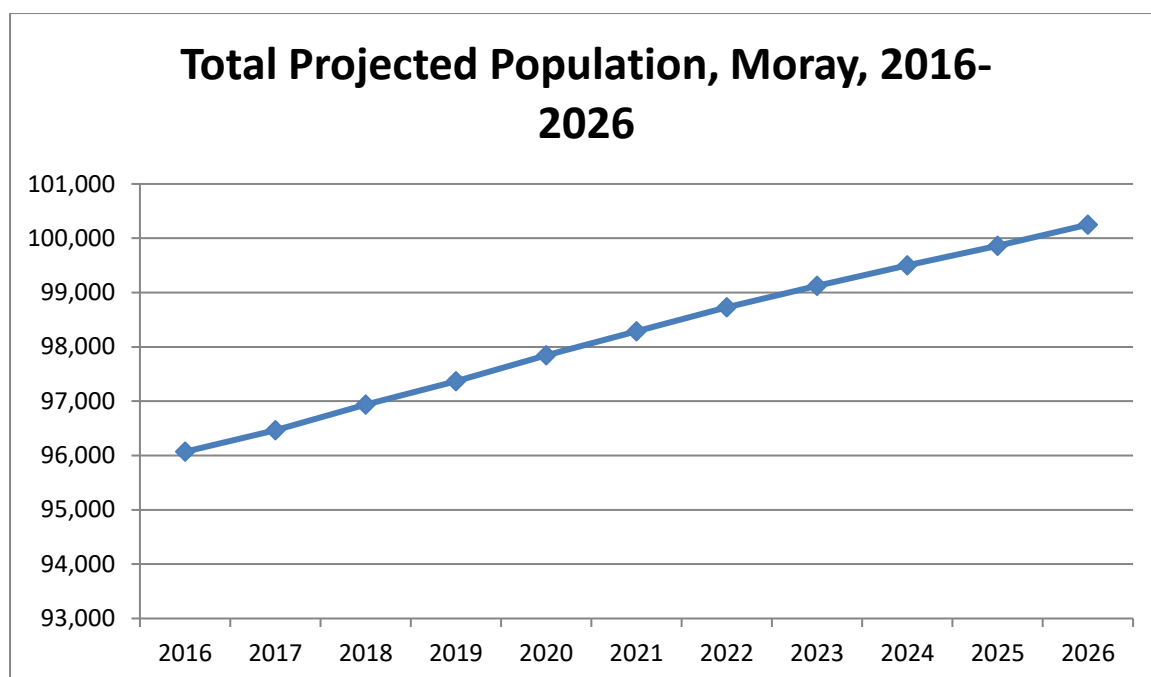
On 30 June 2018, the population of Moray was 95,520 which was a decrease of 0.3% from 2017. In the 2017 monitoring report population projections from the National Records of Scotland (NRS) predicted that Moray's long term population growth up to 2039 would flat line or even decrease from the current population to approximately 96,000.

The 2017 Monitoring Report stated that members should be wary of long term projections. In a report presented to the Environmental Services Committee in 2004 (paragraph 2.2 of the report refers), population projections were of concern as they indicated that Moray's population could fall by 8 percent over the period from 2002 to 2018 to below 80,000. This projection has proven to be significantly incorrect given the current population is 95,520.

The most recent population projections from the NRS are significantly different from those that were presented in the 2017 monitoring report. The most recent population projections from the NRS are as follows;

Between 2018 and 2026 Moray's population is projected to increase from 95,520 to 100,251 which is an increase of 4.4%.

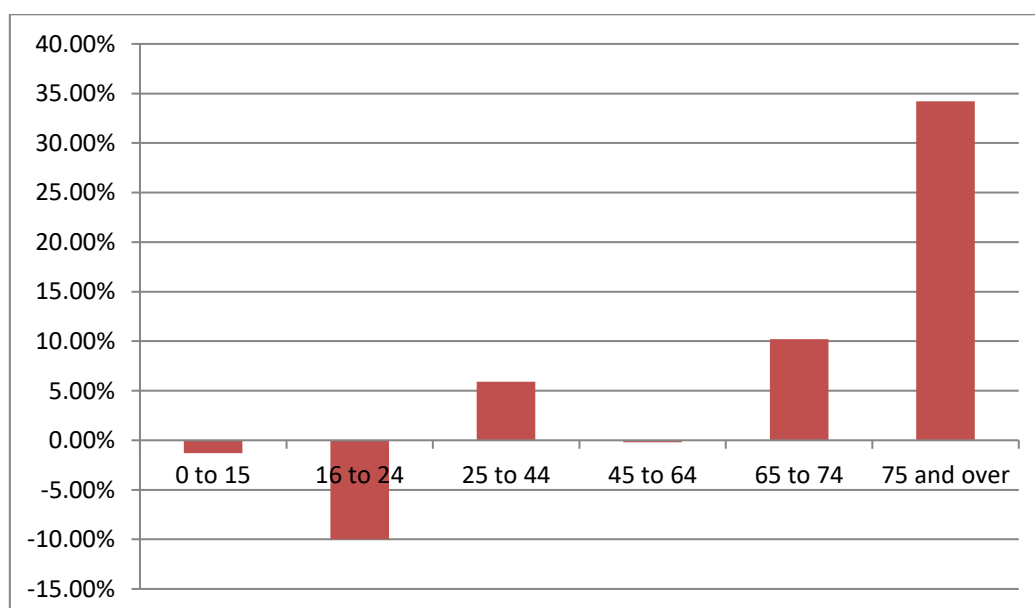
## APPENDIX 1



This compares to a projected increase of 3.2% across Scotland as a whole. This projected increase is different to previous projections and will have implications for local service provision.

A breakdown of percentage change in projected population by age group between 2016 and 2026 shows that the 16 to 24 age group is projected to see the largest percentage decrease (-10%) and the 75 and over age group is projected to see the largest percentage increase (+34.2%). This trend has not changed significantly from the 2017 monitoring report. The projections still indicate that an increasing ageing population in the 75+ category and declining population in the 0 -29 age category is a problem that Moray is going to have to continue to address in the future, particularly in retaining school leavers and graduates.

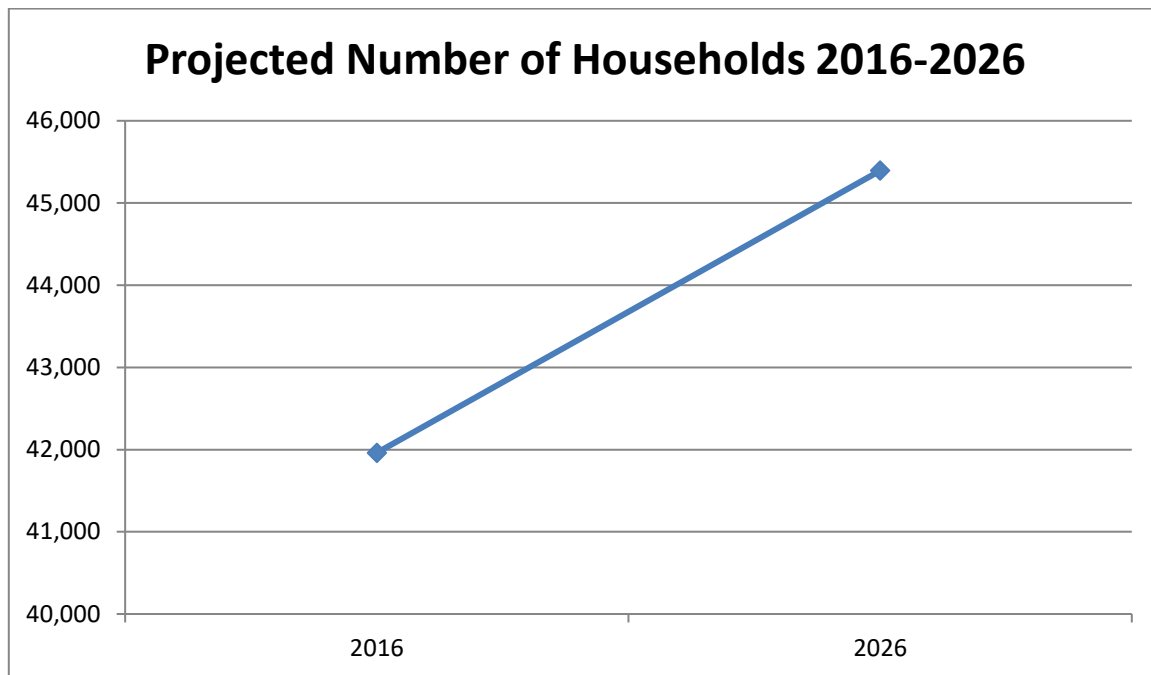
### Percentage change in projected population by age group, 2016 and 2026



Source : NRS

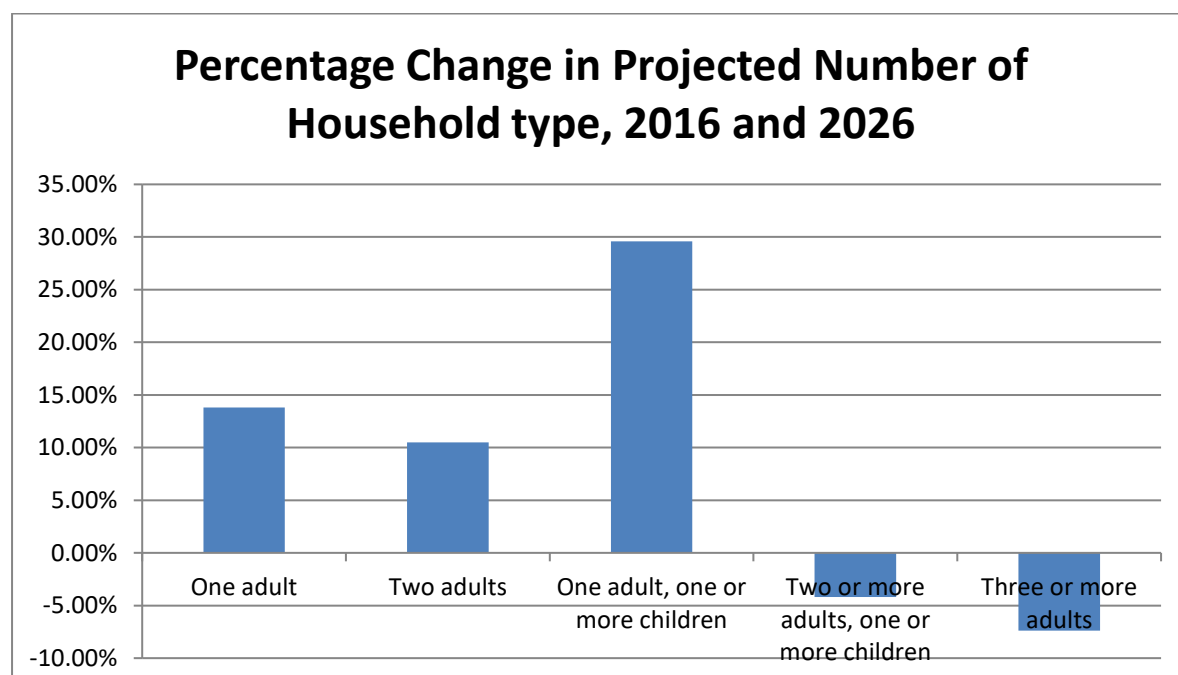
## APPENDIX 1

In 2018 the number of households in Moray was 42,554 which is a 0.7% increase from 2017. This increase in households is expected to increase in the long term. Between 2016 and 2026 the number of households in Moray is projected to increase by 8.2%, from 41,961 to 45,393 which is in line with the overall projected population increase over this time period.



Source : NRS

Projections show that between 2016 and 2026, the household type “Three or more adults” is projected to see the largest percentage decrease (-7.4%) and the household type “One adult, one or more children” is projected to see the largest percentage increase (+29.6%).



## APPENDIX 1

Source: NRS

This projection trend is similar to the one given in the 2017 monitoring report. The projection shows that the number of large households is expected to decrease with a higher demand for smaller household types.

In a report presented to the Communities Committee on 2 April 2019, the Moray Council's Local Housing Strategy 2019-2024 reported that in 2019 there were 13,371 households age 65+ making up 31% of all households. By 2039, this is projected to rise to 38%. The changing demographics with an increasing elderly population will have implications for local service provision such as health care facilities for the elderly and also housing provision. It is likely to put new strains on housing supply and house type provision with a demand for smaller houses, flats, terraced properties, and houses for the elderly including accessible housing.

It also highlights the challenges highlighted with the out migration of younger people with the figures suggesting that many young people move away to enter higher education or to seek other employment opportunities.

### **Implications for LDP 2020**

- **Population of Moray is steadily increasing with a projected long term increase;**
- **Maintain a five year effective land supply to deliver housing to meet an increasing population;**
- **Provide more affordable and accessible housing; and**
- **Ensure a mix of housing is provided to meet the changing demographics of an ageing population and smaller household size.**

### **Settlement Actions**

A “traffic light” coding has been used to give an overall indication on progress across residential designations in Moray:-

- Red – Site in danger of non-delivery. Officers will liaise with the developer / landowner if there is no sign of the site coming forward;
- Amber – Site where there is little happening but no specific risk to non-development; and
- Green – Site being actively progressed.

The MLDP 2020 will have a greater focus on delivery with developers and landowners having to provide greater evidence on the effectiveness of sites. A more proactive approach to bringing constrained sites forward is being developed, which could incorporate aspects of the new Planning Act such as Masterplan Consent Areas.



## APPENDIX 1

### Aberlour

Site	Planning Application	Progress	Action
R1 Chivas Field			No action required – site proposed for re-designation (to industrial) in MLDP 2020.
R2 Braes of Allachie			No action required – site proposed for removal from MLDP 2020.
R3 Tombain	18/01457/APP 13/01619/APP 13/01618/APP		Liaise with developer / landowner.
R4 Speyview	18/01373/APP		Consent for Phase 1. Commitment under the Strategic Housing Investment Plan (SHIP). No action at this time.
LONG Braes of Allachie (Phase 2)			No action required – site proposed for removal from MLDP 2020.

### Alves

Site	Planning Application	Progress	Action
LONG Alves North			No action at this time.

### Archiestown

Site	Planning Application	Progress	Action
R1 East End			Liaise with developer / landowner.
R2 South Lane			Liaise with developer / landowner.
R3 West End			Liaise with developer / landowner.
R4 South of Viewmount			Liaise with developer / landowner.

### Buckie

Site	Planning Application	Progress	Action
R1 Burnbank			Liaise with developer / landowner.

## APPENDIX 1

R2 Parklands	11/01818/APP 08/00951/FUL 06/02243/FUL		No action required – site developed.
R3 Archibald Grove	18/01108/APP		Commitment under the Strategic Housing Investment Plan (SHIP). No action required – site currently under development.
R4 Steinbeck Road	TP/198/71 and subsequent individual applications		No action required – site developed.
R5 Rathburn (N)			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
R6 Rathburn (S)			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
R7 Barhill Road (E)	11/00331/APP 09/02267/APP 07/00426/FUL		No action required – site developed.
R8 Barhill Road (W)	10/01755/APP 08/02040/FUL		No action required – site developed.
R9 High Street (E)			Liaise with developer / landowner.
R10 High Street (W)			Liaise with developer / landowner.
R11 Barhill Road (W)	16/00620/APP		Commitment under the Strategic Housing Investment Plan (SHIP). No action required – site currently under development.

### Burghead

Site	Planning Application	Progress	Action
R1 North Quay, Harbour	18/00359/APP		Consent for 6 units and modified S75 agreement. No action at this time.
R2 Redcraig Hotel (South)			No action required – site developed.
R3 St. Aethans Road			No action required – site developed.

## APPENDIX 1

R4 Clarkly Hill			Liaise with developer / landowner.
R5 Redcraig Hotel (North)			No action required – site developed.

### Craigellachie

Site	Planning Application	Progress	Action
R1 Edward Avenue			Liaise with developer / landowner.
R2 Spey Road			No action required – site proposed for removal from MLDP 2020.
R3 Site of Former Brewery			Liaise with developer / landowner.
R4 Brickfield	16/01559/APP 16/01558/APP		Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.

### Cullen

Site	Planning Application	Progress	Action
R1 Seafield Place			No action required – site proposed for removal from MLDP 2020.
R2 Seafield Road			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.

### Cunninghamston

Site	Planning Application	Progress	Action
R1 Seaview Road	17/00627/APP 10/02077/APP 10/00573/APP		Liaise with developer / landowner.

### Dallas

Site	Planning Application	Progress	Action
R1 Dallas School West			Liaise with developer / landowner.

## APPENDIX 1

R2 Dallas School East			Liaise with developer / landowner.
R3 Former Filling Station			Liaise with developer / landowner.

### Dufftown

Site	Planning Application	Progress	Action
R1 Corsemaul Drive			No action required – site proposed for removal from MLDP 2020.
R2 South of Conval Street			No action required – site proposed for removal from MLDP 2020.
R3 Hillside Farm			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
R4 Tomnamuidh			No action required – site proposed for removal from MLDP 2020.

### Dyke

Site	Planning Application	Progress	Action
R1 North Darklass Road	17/01233/AMC 15/01909/PPP		No action required – site currently under development.
R2 South Darklass Road			Liaise with developer / landowner.

### Elgin

Site	Planning Application	Progress	Action
R1 Bilbohall North	19/00930/PAN		Planning application anticipated in early 2020 – continue input in planning application process.
R2 Thornhill	08/02031/FUL		No action required – site developed.

## APPENDIX 1

R3 Bilbohall South	19/00930/PAN		Commitment under the Strategic Housing Investment Plan (SHIP). Planning application anticipated in early 2020 – continue input in planning application process.
R4 South West of Elgin High School	19/00930/PAN		Planning application anticipated in early 2020 – continue input in planning application process.
R5 Spynie Hospital North	17/00607/APP 08/02766/FUL		No action required – site currently under development.
R6 Hattonhill			No action required – site proposed for removal from MLDP 2020.
R7 Birnie Road	15/02056/APP 10/02115/APP		No action required – site developed.
R8 Glassgreen	10/02115/APP		No action required – site currently under development.
R9 Driving Range Site	17/01408/APP 15/02020/APP		No action required – site currently under development.
R10 Linkwood Steading Site	19/00550/APP 15/02032/APP		No action required – site currently under development.
R11 Findrassie / Myreside Site	17/00834/PPP		Commitment under the Strategic Housing Investment Plan (SHIP). Consent granted for Phase 1 – continue input in planning application process for future phases.
R12 Knockmasting Wood	19/00930/PAN		Planning application anticipated in early 2020 – continue input in planning application process.
R13 Former Hamilton Drive School Site	19/00386/APP		Planning application under consideration for 17 units.
R14 Lesmurdie Field	18/00978/PAN		Commitment under the Strategic Housing Investment Plan (SHIP). Planning application anticipated – liaise with developer / landowner.
LONG1 North East			Liaise with developer / landowner.

## APPENDIX 1

LONG2 South	18/01209/APP 16/01244/APP		Commitment under the Strategic Housing Investment Plan (SHIP). No action required – part of site currently under development.
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### Findhorn

Site	Planning Application	Progress	Action
R1 Heathneuk	18/01518/APP 17/00333/APP 14/00869/APP		No action required – site currently under development.
R2 Duneland	16/01377/APP 16/01265/APP 14/00737/PPP 10/00731/AMC 07/00765/OUT		No action required – site currently under development.

### Findochty

Site	Planning Application	Progress	Action
R1 Morven Crescent			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
R2 West of Primary School			Liaise with developer / landowner.

### Fochabers

Site	Planning Application	Progress	Action
R1 Ordiquish Road	15/00244/APP		Commitment under the Strategic Housing Investment Plan (SHIP). Liaise with developer / landowner.
R2 Ordiquish Road West			Liaise with developer / landowner.
R3 East of Duncan Avenue	16/00308/APP		No action required – site currently under development.

## APPENDIX 1

LONG Ordiquish Road East			No action at this time.
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### Forres

Site	Planning Application	Progress	Action
R1 Knockomie (South)	19/00293/APP		Planning application under consideration for 112 units.
R2 Knockomie (North)	07/02414/FUL		No action required – site developed.
R3 Ferrylea	18/01142/APP 18/00113/APP 16/00743/APP 12/01110/APP		Commitment under the Strategic Housing Investment Plan (SHIP). Planning application under consideration for Phase 3.
R4 Lochyhill	09/02364/APP (lapsed)		Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
R5 Burdshaugh			No action required – site developed.
R6 Mannachy	17/00360/PE		Liaise with developer / landowner.
R7 Thornhill	08/02038/FUL		No action required – site developed.
R8 Balnageith			Liaise with developer / landowner.
R9 Plantation Cottage			No action required – site proposed for removal from MLDP 2020.
R10 Dallas Dhu			Potential site within the New proactive approach to mixed housing delivery. Commitment under the Strategic Housing Investment Plan (SHIP). Liaise with developer / landowner.
R11 Pilmuir Road West			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
LONG1 Lochyhill			Liaise with developer / landowner.

## APPENDIX 1

LONG2 Dallas Dhu			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
LONG3 West Park Croft	18/01142/APP		Planning application under consideration for Phase 3.

### Garmouth

Site	Planning Application	Progress	Action
R1 South of Innes Road			Liaise with developer / landowner.

### Hopeman

Site	Planning Application	Progress	Action
R1 Manse Road	19/00943/PEMAJ 19/00783/PAN		Preliminary Enquiry under consideration for residential development (76 units) and nursing / retirement home.
LONG Manse Road South	19/00943/PEMAJ 19/00783/PAN		Preliminary Enquiry under consideration for residential development (76 units) and nursing / retirement home.

### Keith

Site	Planning Application	Progress	Action
R1 Nelson Terrace	19/00565/APP 17/01253/APP 17/00287/APP 14/02313/APP		Liaise with developer / landowner.
R2 Alexandra Road			No action required – site proposed for removal from MLDP 2020.
R3 Edindiach Road West	07/01549/FUL		Liaise with developer / landowner.
R4 Balloch Road			Liaise with developer / landowner.
R5 Seafeld Walk			No action required – site proposed for removal from MLDP 2020.



## APPENDIX 1

R6 Banff Road North	18/01497/APP		Commitment under the Strategic Housing Investment Plan (SHIP). No action at this time.
R7 Banff Road South			No action required – site redesignated as Mixed Use site, with health centre, in MLDP 2020.
R8 Edindiach Road (East)	07/01419/FUL 13/01735/APP 14/01114/APP 17/01600/APP 19/00513/APP		Liaise with developer / landowner.
R9 Jessieman's Brae			No action required – site proposed for removal from MLDP 2020.
R10 Broomhill Road			No action required – site proposed for removal from MLDP 2020.
LONG Edindiach Road			Liaise with developer / landowner.

### Kinloss

Site	Planning Application	Progress	Action
R1 Woodland, West of Seapark House	15/01605/PPP 17/00780/APP		Liaise with developer / landowner.
R2 Woodside East	18/02263/FUL		No action required – site developed.
R3 Findhorn Road West	17/01906/APP		Consent for 5 units.
R4 Damhead	19/00260/PPP		Planning application under consideration for 23 units.

### Lhanbryde

Site	Planning Application	Progress	Action
R1 West of St Andrews Road	19/01080/APP 19/01080/PAN		Planning application under consideration for 86 units.

### Lossiemouth

Site	Planning Application	Progress	Action
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## APPENDIX 1

R1 Sunbank / Kinneddar	14/01486/APP 19/00100/APP		Commitment under the Strategic Housing Investment Plan (SHIP). No action required – site currently under development.
R2 Stotfield Road			Liaise with developer / landowner.
R3 Inchbroom	08/01685/FUL 08/01692/FUL 10/00492/APP 11/01215/APP		No action required – site currently under development.

### Mosstodloch

Site	Planning Application	Progress	Action
R1 Stynie Road	19/00517/APP 18/01536/APP 16/00083/APP 10/01267/APP		Commitment under the Strategic Housing Investment Plan (SHIP). Consent granted for Phase 1 and planning application under consideration for Phases 2 and 3.
R2 Garmouth Road			Liaise with developer / landowner.

### Newmill

Site	Planning Application	Progress	Action
R1 Isla Road			Liaise with developer / landowner.

### Portgordon

Site	Planning Application	Progress	Action
R1 West of Reid Terrace			Liaise with developer / landowner.
R2 Crown Street			Liaise with developer / landowner.

### Portknockie

## APPENDIX 1

Site	Planning Application	Progress	Action
R1 Seabraes			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.

### Rafford

Site	Planning Application	Progress	Action
R1 Brockloch			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.

### Rothies

Site	Planning Application	Progress	Action
R1 Spey Street			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
R2 Green Street			Liaise with developer / landowner.

### Rothiemay

Site	Planning Application	Progress	Action
R1 Castle Terrace	14/01431/AMC 11/00991/APP 07/02477/OUT		Liaise with developer / landowner.
R2 Anderson Drive			Liaise with developer / landowner.
R3 Deveronside Road			Liaise with developer / landowner.

### Urquhart

Site	Planning Application	Progress	Action
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## APPENDIX 1

R1 Meft Road	18/00119/PE		Liaise with developer / landowner.
LONG1 Meft Road	18/00119/PE		No action at this time.
LONG2 Station Road			No action at this time.

### Implications for LDP

- **Development concentrated in Elgin, Buckie and Forres;**
- **Very little development in third tier settlements and Speyside, other than Speyview, Aberlour;**
- **Introduce new approach reviewing the effectiveness of sites through the LDP2020 Delivery Programme; and**
- **Consider alternative approach to unlocking large housing designations that have been in several local plans, such as a phased piecemeal approach and use of Masterplan Consent Areas.**

### Housing Land Audit

The Housing Land Audit (HLA) 2019 shows an effective housing land supply of 4,189 units meeting Scottish Planning Policy's (SPP) requirement to have a five year effective supply. Sites at Elgin South for the Moray Sports Centre, Linkwood Primary School and approximately 150 units were released through the 2016 Audit and sites at Bilbohall have come forward from the constrained supply into the effective supply. This figure is further supplemented by the effective 5 year+ figure of 1,560 units which are constrained by market conditions.

	2015	2016	2017	2018	2019
Moray	2,474	2,706	4,094	3,638	4,189

*Table showing effective housing land supply in Moray, HLA 2019*

The HLA 2019 identifies that in 2018 there were 312 completions which is a decrease from the previous three years.

	2012	2013	2014	2015	2016	2017	2018
Moray	341	295	309	337	334	382	312

*Table showing completion rates 2012 -2018, HLA 2019*

While the overall effective land supply is good, the numbers of completions are below the annual requirements identified in the Housing Needs and Demand Assessment of 395 units. Projected completions are estimated to increase over the next couple of years as sites within MLDP 2015 are built out and with the release of land for housing at Elgin South and Bilbohall. Completions have generally reflected the settlement hierarchy, with completions highest in the primary centre of Elgin, followed by the second tier settlements of Forres and Buckie respectively. Development rates at Ferrylea, Forres have been double the rate projected in the 2018 Housing Land Audit. Development rates in Keith and Speyside

## APPENDIX 1

continue to be low and Officers are looking at how existing sites can be made more effective.

### Implications for LDP 2020

- **Unlocking sites that have been designated in several plans by looking at alternative approaches particularly in third tier settlements;**
- **Focus on delivery of housing to meet the identified demand due to an increasing population and changing demographics; and**
- **LDP to focus on a 10 year spatial strategy for growth as recommended by the recent planning review.**

### Employment Land Audit

The employment land audit 2019 identifies that as of 1 January 2019 there was 153.4 hectares of land (net) within the Established Land Supply. This is a decrease of 0.91 hectares since 2018 due to several sites being built out and a windfall site at Thomshill being removed due to a lapsed planning consent.

79.84 hectares (net) across 15 sites is classed as marketable/effective which is a decrease of 0.43 hectares and two sites since 2018. This is due to construction completed at March Road SE (I3) Buckie, land under construction at Chanonry Elgin (I2), completion of a windfall site at West Whins Findhorn, occupation of yard space at Waterford Forres (I3) and occupation of yard space at Rothes Back Burn (I1). The distribution of Marketable/Effective sites reflects the settlement hierarchy within the LDP, however there is a shortage of general industrial land in Forres and Speyside. The audit highlights that whilst there is a reasonable area available the number and choice of sites across all settlements is limited.

The amount of land Immediately Available is 39.15 hectares (net) across 6 sites. This is an increase of 21.2 hectares compared to 2018; and an increase in the number of sites by one.

The 2017 Monitoring Report reported that the Barmuckity Strategic Development Framework was approved on 1 November 2016 to aide delivery of the site and ensure a marketable/effective supply in Elgin. The servicing of this site and at March Road SE Buckie (I3) have contributed to this increase in land available. Subsequent planning applications have been approved on these sites. However, there continues to be a shortage in the number of immediately available sites. The emphasis on employment land is within the five main settlements with more limited supply in other towns with a limited supply of serviced sites in Forres and Speyside.

In the year to 1 January 2019 1.29 hectares of land was developed. This includes completion or occupation of sites at:-

- March Road SE/Rathven Industrial Estate (I3);
- Grampian Furnishers at Linkwood East (I6);
- Yard space occupied at Back Burn (I1) Rothes;
- Barmuckity Business Park for a garage and hotel ; and
- Buildings at West Whins Forres.

## APPENDIX 1

It should be noted that the ELA 2019 reported that several other sites were under construction which may now be complete.

A “traffic light” coding has been used to give an overall indication on progress across employment and opportunity designations in Moray:-

- Red – Site is delivered but units are empty or site is in danger of non-delivery;
- Amber – Site is delivered but there are some vacant units or there is little happening but no specific risk to non-development; and
- Green – Site is delivered and at capacity or site is being actively progressed.

### Aberlour

Site	Planning Application	Progress	Action
I1 Aberlour			Fully occupied. No action at this time.
I2 Aberlour / Glenlivet Distillery Area	19/00686/PAN		Site expanded as part of MLDP 2020. Proposals for redevelopment and expansion of Aberlour Distillery are actively being progressed.
I3 Mary Avenue			Fully occupied. No action at this time.
I4 Fisherton			One vacancy. No action at this time.
OPP1 Mary Avenue			Fully occupied. No action at this time.

### Buckie

Site	Planning Application	Progress	Action
I1 March Road (NW)			Fully occupied. No action at this time.
I2 March Road (NE)			Fully occupied. No action at this time.
I3 March Road (SE)	17/00193/APP		Partially developed and occupied. Site is being actively marketed. No action at this time.

## APPENDIX 1

I4 Maltings	19/00685/SCN 16/01261/APP 18/01621/PE 16/00731/PE		Part of site is occupied by the Maltings. Preliminary Enquiry made in 2016 for expansion and subsequent application received consent. Further Preliminary Enquiry made in 2018 and Screening Opinion in 2019.
I5 The Harbour Area			Partially occupied. No action at this time.
OPP1 Highland Yards	19/00416/APP 17/01468/APP		Site partially occupied by Lidl. Consent for 31 affordable houses for remainder of site. No action at this time.
OPP2 Blairdaff Street			Liaise with developer / landowner.
OPP3 Baron Street	16/00405/PE		Potential site within the New proactive approach to mixed housing delivery. Preliminary Enquiry made in 2016 for use as storage yard. Liaise with developer / landowner.
OPP4 Bank Street			Liaise with developer / landowner.
OPP5 The Former Jones Shipyard			Major access constraints. Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
OPP6 Former Grampian Country Park	19/00700/APP		Planning application under consideration for indoor trampoline/activity centre.
OPP7 Former Millbank Garage Site	08/01098/FUL		No action at this time – site currently under development.

### Burghead

Site	Planning Application	Progress	Action
I1 Burghead Maltings			Fully occupied. No action at this time.

## APPENDIX 1

OPP1 West Foreshore			Potential site within the New proactive approach to mixed housing delivery. Preliminary discussions held with developer. Continue to liaise with developer / landowner.
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### Craigellachie

Site	Planning Application	Progress	Action
I1 Distillery			Fully occupied. No action at this time.

### Cullen

Site	Planning Application	Progress	Action
I1 Port Long Road			Redesignated as OPP site in MLDP 2020. Liaise with developer / landowner.
OPP1 Blantyre Street			Liaise with developer / landowner.

### Dufftown

Site	Planning Application	Progress	Action
I1 Balvenie Street	19/00131/APP		Vacancy being actively marketed. No action at this time.
I2 Mortlach Distillery			Fully occupied. No action at this time.
OPP1 Auction Mart, Hill Street	14/00320/APP		Southern part of site fully developed. Consent remains for 5 affordable units in northern part. Commitment under the Strategic Housing Investment Plan (SHIP). Southern part of site to be removed from designation as part of MLDP 2020. No action at this time.
OPP2 Hill Street			Liaise with developer / landowner.
OPP3 Balvenie Street			Fully occupied. No action at this time.



## APPENDIX 1

### Elgin

Site	Planning Application	Progress	Action
I1 Linkwood Industrial Estate	18/01187/APP 17/00816/APP		Vacancy being actively marketed. No action at this time.
I2 Chanonry Industrial Estate	18/01147/APP 18/00740/APP 17/00890/APP		Vacancy being actively marketed. No action at this time.
I3 Moycroft Industrial Estate			Fully occupied. No action at this time.
I4 Tyock Industrial Estate	18/01484/APP 17/00018/APP		Vacancies being actively marketed. No action at this time.
I5 Pinefield Industrial Estate	19/00340/APP 17/00952/APP 17/00785/APP		Fully occupied. No action at this time.
I6 Linkwood East	18/01472/APP 18/01126/APP		One vacancy subject to erection of car sales pavilion. No action at this time.
I7 Barmuckity	18/01000/APP 17/01958/APP 17/01930/APP 17/01282/APP		Development has started with consents for a hotel and garage. Site is being actively marketed. No action at this time.
I8 Newfield	16/00413/PAN		Forms part of Findrassie Masterplan. Continue to liaise with developer / landowner.
I9 Railway Sidings / Ashgrove Road	17/00266/APP		Partially occupied. No action at this time.
I10 Edgar Road			Fully occupied. No action at this time.
I11 Johnstons Woollen Mill			Fully occupied. No action at this time.
I12 Glen Moray Distillery, Bruceland Road			Fully occupied. No action at this time.
I13 Linkwood Distillery			Fully occupied. No action at this time.
I14 Ashgrove Road			Fully occupied. No action at this time.
I15 Grampian Road	19/00406/PPP 19/00597/APP 19/00821/APP		Redesignated as OPP site in MLDP 2020. No action at this time.
I16 Sandy Road (The Wards)	19/00486/APP 18/00420/APP 17/01567/APP		Fully occupied. No action at this time.

## APPENDIX 1

OPP1 Flemings Sawmill / Former Morayshire Tractors, Linkwood Road			Liaise with developer / landowner.
OPP2 Hill Street / Ladyhill			Potential site within the Housing mix project. Liaise with developer / landowner.
OPP3 Wards Road	19/00368/APP		Potential site within the New proactive approach to mixed housing delivery. Vacancy being actively marketed. No action at this time.
OPP4 Ashgrove Road			Liaise with developer / landowner.
OPP5 Auction Mart, Linkwood Road	17/00120/PPP (Refused) 16/01121/PE 16/00980/PE		Potential site within the New proactive approach to mixed housing delivery. Preliminary Enquiries in 2016 for mixed use developments including residential. Liaise with developer / landowner.
OPP6 Spynie Hospital	19/01025/PAN		Redesignated as residential site in MLDP 2020. Site subject to a PAN for 50 units. Commitment under the Strategic Housing Investment Plan (SHIP).
OPP7 Bilbohall	19/00930/PAN		Redesignated as residential site in MLDP 2020. Commitment under the Strategic Housing Investment Plan (SHIP). Forms part of Bilbohall Masterplan, which has been subject to a PAN. Planning application anticipated in early 2020.

### Findhorn

Site	Planning Application	Progress	Action
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## APPENDIX 1

OPP1 Boatyard			Initial discussions held with developer. Continue to liaise with developer / landowner.
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### Findochty

Site	Planning Application	Progress	Action
OPP1 North Beach	18/00700/APP		No action at this time.

### Fochabers

Site	Planning Application	Progress	Action
OPP1 High Street	16/01185/APP 15/00207/APP		Site developed and removed from MLDP 2020.
OPP2 Institution Road			Liaise with developer / landowner.
OPP3 Lennox Crescent			Liaise with developer / landowner.
OPP4 Garden Centre	12/00070/APP		Site developed and removed from MLDP 2020.

### Forres

Site	Planning Application	Progress	Action
I1 Greshop West			Vacancy being actively marketed. No action at this time.
I2 Greshop East	18/00439/APP		Vacancy being actively marketed. No action at this time.
I3 Former Waterford Sawmill			Vacancies being actively marketed. No action at this time.
I4 Waterford Road			Fully occupied. No action at this time.
I5 Benromach Distillery	18/00811/APP		Fully occupied. Consent for expansion for warehouses.
I6 Railway Marshalling Yard			Redeveloped for replacement train station and removed from MLDP 2020.
I7 Springfield West			Site removed from MLDP 2020.
I8 Springfield East			Site removed from MLDP 2020.

## APPENDIX 1

OPP1 Caroline Street	18/00217/APP		Partially developed and occupied. Main area remains vacant. Potential site within the New proactive approach to mixed housing delivery. Commitment under the Strategic Housing Investment Plan (SHIP). Liaise with developer / landowner.
OPP2 Bus Depot, North Road			Liaise with developer / landowner.
OPP3 Castlehill Health Centre	15/01446/APP		Site redeveloped and removed from MLDP 2020.
OPP4 Cathay	18/01117/APP		Application for 12 houses under appeal. Site removed from MLDP 2020.
OPP5 Leancoil Hospital	17/01795/LBC		Liaise with developer / landowner.
OPP6 Edgehill Road			Liaise with developer / landowner.
OPP7 Auction Hall, Tytler Street			Potential site within the New proactive approach to mixed housing delivery. Liaise with developer / landowner.
OPP8 Whiterow	17/01877/APP 18/00519/APP 18/00664/APP		Consents for 4 individual houses and initial discussions for wider site held with landowner. Continue to liaise with developer / landowner.

### Hopeman

Site	Planning Application	Progress	Action
I1 Forsyth Street			Fully occupied. No action at this time.

### Keith

Site	Planning Application	Progress	Action
I1 Westerton Road North			Fully occupied. No action at this time.

## APPENDIX 1

I2 Westerton Road South			Vacancies but site is being actively marketed. No action at this time.
I3 Westerton Road East	18/00274/APP		Consent for energy management facility.
I4 Bridge Street			Mostly occupied by Keith Builders Merchant. No action at this time.
I5 Edindiach Road			Fully occupied. No action at this time.
I6 Newmill Road			Fully occupied. No action at this time.
I7 Isla Bank Mills			Vacancies but site is being actively marketed. No action at this time.
I8 Grain Store, Dufftown Road			Fully occupied. No action at this time.
I9 Burn of Haughs Bonded Warehouses			Fully occupied. No action at this time.
I10 Railway Land and Blending Works	18/01174/APP		Fully occupied. No action at this time.
OPP1 The Tannery			Liaise with developer / landowner.
OPP2 Former Primary School, Church Road			Fully occupied. No action at this time.
OPP3 Newmill Road South	18/00284/PE		Preliminary Enquiry in 2018 for residential development (22 units). Liaise with developer / landowner.
OPP4 Former Caravan Site	17/00755/PE		Potential site within the New proactive approach to mixed housing delivery. Redesignated as residential site in MLDP 2020.

## Lhanbryde

Site	Planning Application	Progress	Action
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## APPENDIX 1

OPP1 Garmouth Road	15/02009/APP		Commitment under the Strategic Housing Investment Plan (SHIP). Site partially development. Remainder of site redesignated as residential site in MLDP 2020. Liaise with developer / landowner.
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### Lossiemouth

Site	Planning Application	Progress	Action
I1 Coularbank Industrial Estate	19/01037/APP		Vacancy being actively marketed. Application under consideration for change of use to gin micro distillery.
I2 Shore Street			Fully occupied. No action at this time.
OPP1 Sunbank			Liaise with developer / landowner.

### Mosstodloch

Site	Planning Application	Progress	Action
I1 Garmouth Road			Fully occupied. No action at this time.
I2 North of Baxter's			Liaise with developer / landowner.
I3 South of A96			Redesignated as LONG mixed use site in MLDP 2020. Liaise with developer / landowner.
I4 Sawmill			Fully occupied. No action at this time.
I5 Baxter's			Fully occupied. No action at this time.

### Newmill

Site	Planning Application	Progress	Action
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## APPENDIX 1

OPP1 The Square	18/00047/APP		Consent for 2 houses.
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### Portknockie

Site	Planning Application	Progress	Action
I1 Patrol Road			Redesignated as opportunity site in MLDP 2020. Liaise with developer / landowner.

### Roths

Site	Planning Application	Progress	Action
I1 Back Burn			Being utilised for storage. Liaise with developer / landowner.
I2 The Distilleries			Fully occupied. No action at this time.
I3 Reserve Land Rear of Dark Grains Plant			Fully occupied. No action at this time.
I4 Station Yard	18/01199/APP		Mostly occupied with some gap sites. No action at this time.
OPP1 Greens of Roths			Initial discussions with landowner. Redesignated as employment land in MLDP 2020. Continue to liaise with developer / landowner.
OPP2 North Street			Liaise with developer / landowner.

### Implications for LDP 2020

- New employment land identified across settlements in Moray;
- Explore issues on identified and new sites to improve the supply of serviced land across Moray;

### Vacant and Derelict Land

Although unverified, the submitted data to the Scottish Vacant and Derelict Land Survey 2019 identified that Moray had 16.46ha of derelict and vacant land, across 18 sites. Since the 2018 Survey, two sites (West Cathcart Street [BC\_08] and Wards Road West, Elgin [EL\_06]) were removed due to the commencement of

## APPENDIX 1

development. The overall size of vacant and derelict land increased slightly (0.01ha) despite the removal of these two sites. This was due to a review of Shore Street West, Lossiemouth which increased in size by 0.15ha.

Since 2012, there has been a 40% reduction in vacant and derelict land in Moray.

### Implications for LDP 2020

- **Explore issues on identified vacant and derelict land sites to improve the supply of serviced land across Moray.**

### Placemaking and Design

#### Quality Audit

The 2017 Monitoring Report highlighted that a Quality Audit process was introduced to implement and assess planning applications against the Primary Placemaking Policy in the MLDP with the aim of raising urban design standards across Moray.

The Quality Audit process was part of a submission which won an award at the 2016 Scottish Awards for Quality Planning when it was submitted by the Council in partnership with Architecture and Design Scotland and explained the steps that have been taken to improve the design standards of development and promoting better placemaking across Moray.

The Quality Audit involves a multi-disciplinary team of Council Officers from Development Plans, Development Management, Housing and Transportation assessing proposals and working with developers to resolve design issues. Since the 2017 Monitoring Report this multi-disciplinary team has been expanded to include officers from the Moray Council's Flood Risk Management Team and Scottish Natural Heritage. This approach has improved collaborative working across sections as well as improving the design of layouts by being able to embed innovative drainage solutions and measures to improve biodiversity from the outset.

Since the 2017 Monitoring Report several applications have been through the Quality Audit process. It has been a successful tool in assessing applications and providing developers with the necessary mitigation required for proposals to comply with the placemaking policy.

Development Plans Officers have monitored the outcomes of these audits which has influenced the placemaking policy of the LDP2020 and the revised Quality Audit 2 which will accompany the next plan. The Annual Planning Performance Framework does not include a measure of quality of outcomes. Officers are discussing with the Scottish Government the opportunity to bring in a form of quality auditing across Scotland.

The Quality Audit assesses proposals against 12 Design Principles and are scored using a traffic light system. The following tables provide an overview of how the Quality Audit has been used to achieve better layouts with an overview of the changes that were achieved:-



## APPENDIX 1

### 17/01468/APP – Highland Yard, Buckie

DESIGN PRINCIPLE	AUDIT	REVISED
Connections		
Public Transport		
Safer Environment		
Car Parking		
Legibility/Street Hierarchy		
Character & Identity		
Housing Mix		
Access to facilities and amenities		
Natural Features		
Open Space		
Biodiversity		
Landscaping		

Summary of negotiated improvements:-

- Improved access and active travel links;
- Improvement to parking arrangements to reduce visual impact on the street;
- Reconfiguration of plots so properties front Well Road; and
- Improved landscaping and planting across the site.

### 17/01233/AMC – Dyke

DESIGN PRINCIPLE	AUDIT	REVISED
Connections		
Public Transport		
Safer Environment		
Car Parking		
Legibility/Street Hierarchy		
Character & Identity		
Housing Mix		
Access to facilities and amenities		
Natural Features		
Open Space		
Biodiversity		
Landscaping		

## APPENDIX 1

Summary of negotiated improvements:-

- Improved footpath connections to the rest of the settlement;
- Reorientation of plots to ensure that no blank gables front the street;
- Stonewall entranceway feature;
- Increased planting including street trees and beech hedging as a boundary treatment;
- Creation of an area of open space that will become a focal point of the development; and
- Retention of mature trees on the site.

### **18/01497/APP – Banff Road Keith**

DESIGN PRINCIPLE	AUDIT	REVISED
Connections		
Public Transport		
Safer Environment		
Car Parking		
Legibility/Street Hierarchy		
Character & Identity		
Housing Mix		
Access to facilities and amenities		
Natural Features		
Open Space		
Biodiversity		
Landscaping		

Summary of negotiated improvements:-

- Increased structural landscaping across the whole site;
- Improved parking layout;
- Improved entranceway into the site with buildings set back, a wall feature, and tree planting;
- Improved landscaping with a variety of species and feature trees;
- Improved area of open space with planting and hedging being provided around the playpark creating a feature of the development.

### **18/01108/APP – Archibald Grove**

## APPENDIX 1

DESIGN PRINCIPLE	AUDIT
Connections	
Public Transport	
Safer Environment	
Car Parking	
Legibility/Street Hierarchy	
Character & Identity	
Housing Mix	
Access to facilities and amenities	
Natural Features	
Open Space	
Biodiversity	
Landscaping	

The application passed the Quality Audit process with only minor changes to the layout being required.

### 18/01536/APP – R1 Stynie Road, Mosstodloch (Phase 1)

DESIGN PRINCIPLE	AUDIT	REVISED
Connections		
Public Transport		
Safer Environment		
Car Parking		
Legibility/Street Hierarchy		
Character & Identity		
Housing Mix		
Access to facilities and amenities		
Natural Features	N/A	N/A
Open Space		
Biodiversity		
Landscaping		

Summary of negotiated improvements:-

- Improved footpath connections;
- Lighting provided within the open space;
- Improved car parking layout;

## APPENDIX 1

- Creation of character areas to add character to the development through variations in the street layout, open space, planting and house finishes; and
- Improvements to the area of open space with seating and play areas.

### 19/00517/APP –R1 Stynie Road, Mosstodloch (Phase 2)

DESIGN PRINCIPLE	AUDIT	REVISED
Connections		
Public Transport		
Safer Environment		
Car Parking		
Legibility/Street Hierarchy		
Character & Identity		
Housing Mix		
Access to facilities and amenities		
Natural Features	N/A	N/A
Open Space		
Biodiversity		
Landscaping		

### 18/01373/APP – R4 Speyview, Aberlour

DESIGN PRINCIPLE	AUDIT	REVISED AUDIT	FINAL AUDIT
Connections			
Public Transport			
Safer Environment			
Car Parking			
Legibility/Street Hierarchy			
Character & Identity			
Housing Mix			
Access to facilities and amenities			
Natural Features			
Open Space			
Biodiversity			
Landscaping			

negotiated improvements:-

## APPENDIX 1

- Redefinition of character areas based on site characteristics rather than phases;
- Amendment of site layout to reflect the topography;
- Increased seating areas throughout the development;
- Improvements to street hierarchy;
- Mitigation for on street parking through planting;
- Additional planting across development and along the northern boundary; and
- Improved landscape plan with a variety of species being provided to promote biodiversity.

### Implications for LDP 2020

- **Introduce and implement Quality Audit 2 to assess planning applications against the new placemaking policy;**
- **Introduce guidance for developers to support Quality Audit 2;**
- **Common themes emerging from the Quality Audit process such as promoting better green spaces and biodiversity, creating character areas and embedding innovative drainage solutions have been incorporated into the Quality Audit 2; and**
- **Continued monitoring of the Quality Audit process.**

### Masterplans & Development Briefs

#### Masterplans

Since the 2017 Monitoring Report, work has continued to progress on the programme of masterplans and development briefs. This has involved collaborative partnership working between landowners, developers and the Council with several of these projects now completed. The collaborative partnership approach has helped deliver high quality place led masterplans which have raised standards of design.

The Findrassie Masterplan was adopted in 2015 and was subject to the Architecture and Design Scotland (ADS) Design and Review Panel process. This approach to collaborative working was described by ADS as representing national best practice and was rewarded at the Scottish Awards in Quality in Planning 2016 where it won an award in the partnership category, reflecting the benefits that can be achieved through collaborative working. Planning permission in principle for Area 1, including mixed-use development and approximately 500 homes, was approved on 24 April 2018 by the Planning & Regulatory Services Committee. Development is anticipated to begin in 2020.

The Dallas Dhu Masterplan was approved as Supplementary Guidance on 30 May 2017 to be used as a material consideration in the determination of planning applications pertaining to Sites R6 Mannachy, R10 Dallas Dhu and Forres LONG 2 of the MLDP. The masterplan adopts a landscape led approach and aims to achieve a successful transition from urban to rural character creating a high quality edge to Forres. The masterplan was subject to three design appraisal workshops hosted by ADS which was attended by Council Planning Officers and Altyre Estate Design Teams to evaluate the masterplan and support the Council in delivering higher standards of design and placemaking. In 2017, pre-application advice was provided

## APPENDIX 1

on proposals for 40 units on R6. In accordance with the Masterplan, a Tree Preservation Order (TPO) was served on the site in 2018.

The Elgin South Masterplan was approved as Supplementary Guidance on 30 May 2017 and will be used as a material consideration in the determination of planning applications pertaining to Site Elgin LONG 2 of the MLDP. The Masterplan includes the site of the Moray Sports Centre, sites for two primary schools, approximately 2,500 houses, a cemetery, retail and community uses. The Masterplan also includes an extensive network of green spaces with a clear hierarchy and function ranging from a large formal park, to play areas, sensory gardens and allotments. Phase 1, including 870 houses, neighbourhood facilities, Moray Sports Centre and two primary schools was approved at a special meeting of the Planning & Regulatory Services Committee on 27 June 2017. Development began in 2019 with a first phase of affordable housing.

Bilbohall is allocated in the MLDP 2015 as Sites R3 Bilbohall South, R4 South West of Elgin High School, and R12 Knockmasting Wood. A masterplan was developed jointly by Moray Council, Grampian Housing Association and Scotia Homes for these sites as well as CF2 Edgar Road and OPP7 which are no longer required for sport or recreational facilities. The Bilbohall Masterplan was approved by the Planning & Regulatory Services Committee on 13 November 2018. A Proposal of Application Notice (PAN) for the sites within the Masterplan was submitted in July 2019 and a planning application is anticipated in January/February 2020.

### Development Briefs

Five development briefs have been approved by the Planning & Regulatory Committee at its meeting on 30 May 2017. These are:-

- R2 and LONG Braes of Allachie, Aberlour;
- R4 Clarkly Hill, Burghead;
- R13 Hamilton Drive, Elgin;
- R1 and LONG Manse Road, Hopeman; and
- R11 Pilmuir Road West, Forbes.

The development briefs set out the design standards for future development of these sites and developers will be expected to reflect these design standards in their proposals. The design standards or principles set out in the development briefs reflect the qualities of a successful place embedded in Scottish Government policy, Placemaking Policy, and Supplementary Guidance on Urban Design and take cognisance of the context and characteristics of each site. This design-led approach to planning will help to ensure high quality development that identifies with the settlement within which it is located.

Of the five sites, two have seen development proposals progressed. A planning application is currently under consideration for 17 detached dwellings on R13 Hamilton Drive, Elgin. A PAN has been submitted for R1 and LONG Manse Road, Hopeman for a total of 75 units and a nursing/retirement home.

### **Implications for LDP 2020**

## **APPENDIX 1**

- **Ongoing programme of development briefs on designated sites to improve design standards.**

### **Housing in the Countryside**

Previous Monitoring Reports highlighted that one of the key planning issues currently being faced in Moray is the proliferation and build-up of housing in the Countryside. This issue was identified as a main issue in the preparation of the LDP 2020.

The issue was first identified when a review of all of Moray's Rural Groupings was undertaken in 2015. During the review it became clear that there are numerous areas across Moray where there is a concentrated build-up of housing in the open countryside. This uncharacteristic build-up of housing is having a detrimental impact on the character and appearance of Moray's countryside, with several rural areas becoming suburbanised.

A guidance note on the Landscape and Visual Impacts of cumulative build-up in the Countryside was approved by this Committee on 15 August 2017. The guidance note is a material consideration in the determination of planning applications and provides detail on the landscape and visual impacts associated with the build-up of new housing in the open countryside. The note focuses on 8 study areas that are identified as "hotspots" where build-up has become concentrated and is detrimental to the character of the countryside.

Following its adoption, the guidance note has been used to help the decision making process in the assessment of planning applications. The 2019 Monitoring Report shows that 24 refused applications for housing in the countryside were appealed at the Local Review Body. The statistics show that 19 (79%) of these reviews were dismissed with the build-up being one of the common reasons for refusal. The 2017 Monitoring Report showed that 47% housing in the countryside appeals were dismissed which suggests that the guidance note and identification of hotspots is assisting the decision making process.

The identification of the build-up of housing in the open countryside was identified as a key issue in the preparation of the LDP2020 and influenced the policy approach to Rural Housing. The Rural Housing policy in the LDP2020 seeks to address the issue by improving the siting and design of proposals in the countryside. The proposed policy requires proposals to be sited where they are suitably contained and enclosed in the landscape with the requirements for slate roofs and a maximum height of 6.75m.

Following on from the identified "hotspots" in the guidance note, pressurised and sensitive areas have been identified where no new housing will be permitted.

### **Implications for LDP 2020**

- **Addressing the imbalance in the settlement hierarchy by guiding development towards identified settlements and groupings.**

## **APPENDIX 1**

### **Open Space**

Policy E5 Open Spaces in the MLDP 2015 gave a commitment to preparing an Open Space Strategy Supplementary Guidance to provide a better understanding of the open space resource. The 2017 Monitoring Report highlighted that an Open Space Strategy was being prepared by a working group led by Officers from Planning and Development with representation from Land and Parks, Moray Access Manager and Scottish Natural Heritage (SNH).

The strategy has since been completed and was approved by the Planning and Regulatory Services Committee on 15 August 2017. It provides a strategic vision for the provision, development, maintenance and management of open space and has improved the consistency in decision making in respect of LDP policy E5 Open Space to ensure that high quality open spaces are provided in developments.

The Open Space Strategy will be updated to reflect the new Open Space policy in the LDP 2020. The new Open Space policy in the LDP 2020 will deliver better quality multi benefit open and green spaces and protect ENV designations from inappropriate development.

#### **Implications for LDP 2020**

- **Update Open Space Strategy to reflect the new open space policy in the LDP2020; and**
- **Evidence base for achieving better standard of open space in new developments.**

### **Biodiversity**

Scotland's biodiversity is under pressure from various sources including pollution, invasive species and a lack of recognition of the value of nature and climate change. A common theme emerging through the current Quality Audit process, biodiversity is being incorporated into the Quality Audit 2 as a standalone consideration and a dedicated policy proposed as part of the MLDP 2020. SNH guidance is used at present to inform developers landscaping plans.

Moray Council are represented on the North East Scotland Local Biodiversity Action Plan (LBAP) Steering Group. In September 2019, this representation was passed to the Strategic Planning & Development team.

#### **Implications for LDP 2020**

- **Specific biodiversity policy included in Plan; and**
- **Guidance on biodiversity for developers to be prepared.**

### **Forestry and Woodlands Strategy**

Moray Council worked in partnership with Scottish Forestry (formerly Forestry Commission Scotland), Highlands and Islands Enterprise, Scottish Natural Heritage



## APPENDIX 1

and Moray Speyside Tourism to prepare the Moray Woodland and Forestry Strategy Supplementary Guidance. The Guidance was approved by the Planning & Regulatory Services Committee at their meeting on 15 August 2017 and adopted in January 2018.

The Strategy is intended to identify the key issues affecting forestry in Moray, highlight the opportunities that exist across the sector, increase the profile of current activities and guide woodland creation to appropriate locations across the area.

Future LDP Monitoring Reports will include information on woodland cover in Moray.

### **Implications for LDP 2020**

- **Stronger relationship between Forestry and Woodlands Strategy and LDP policies.**

### **Development in Woodlands**

In 2017, following a similar exercise in 2014, Scottish Forestry reviewed Moray Council's implementation of the Control of Woodland Removal Policy by analysing the loss of woodland associated with development. In 2014, it was found that more than 60 hectares of woodland was lost to around 180 developments, with no compensatory planting offered. In 2017, the amount of woodland loss was estimated to be 5ha, equating to a 92% reduction in yearly woodland loss between 2014 and 2017.

Due to changes at Scottish Forestry, they are no longer able to provide this information to the Council. Officers in Strategic Planning & Development will look at ways to monitor this in the future.

The Council has secured £17.6k towards compensatory woodland planting and will continue to seek appropriate sites for planting to be provided on. A priority system will be submitted to the Planning & Regulatory Services Committee for approval.

### **Implications for LDP 2020**

- **Stronger relationship between Control of Woodland Removal Policy and LDP policies; and**
- **Where woodland removal is proposed and supported, compensatory planting is sought and implemented as per policy and priority system; and**

### **Minerals**

In Moray, there is a minimum of 247,500 tonnes of sand and gravel available over the next 10 years which is considered to be an adequate supply. Following this, there would be a further minimum of 65,000 tonnes available for extraction on an annual basis until approximately 2033, based on planning consents. Approval was granted in 2018 for the creation of a new sand and gravel quarry at Nether Dallachy. Extracting up to 65,000 tonnes per annum, development has commenced on the site

## **APPENDIX 1**

and extraction begun. An application is currently under consideration for a new sand and gravel quarry at Wester Marchfield, Lhanbryde with an approximate annual extraction of between 20,000 and 30,000 tonnes.

In respect of hard rock, there are consents for extraction in place up until 2064. Using the maximum extraction rates, this would equate to a supply of approximately 340,000 tonnes per annum across 3 quarries. An application is under consideration to bring the dormant Rosarie Quarry, Keith back into use. Based on the development rates, it is considered that the supply of hard rock is sufficient to meet local demand and that there is a landbank available in excess of 45 years.

### **Implications for LDP 2020**

- **Update Minerals Audit to ensure sufficient landbanks are available.**

### **Wind Energy**

The updated Moray Onshore Wind Energy Guidance was adopted on 1 November 2017 following approval by Scottish Ministers. The updated guidance includes an updated landscape capacity study reflecting recent developments, a section on capacity for turbines 150-200m and identifies opportunities for extensions and repowering.

A number of large scale wind farm proposals are currently under consideration. A Public Local Inquiry (PLI) took place in September 2019 to consider Paul's Hill II. Due to the Council's objections to Clash Gour Wind Farm and Rothes III Wind Farm, the Scottish Ministers are obliged to call a PLI for each proposal.

### **Implications for LDP 2020**

- **Cumulative impact and opportunities for extensions and repowering of existing wind farms to be highlighted.**

### **Developer Obligations and Infrastructure**

Developer Obligations Supplementary Guidance was approved by the Scottish Government on 14 October 2016 and now forms part of the statutory MLDP. The Supplementary Guidance is reviewed on an annual basis primarily to update figures for infrastructure requirements. The Developer Obligations Supplementary Guidance was updated and approved by the Planning and Regulatory Services Committee on 5 December 2017. It was approved by the Scottish Government in March 2018.

An Infrastructure Delivery Group (IDG) has been set up to proactively co-ordinate the planning and delivery of infrastructure in Moray. The IDG is led by Strategic Planning and Development Officers and includes representatives from the Council's Transportation Service, Education Service, NHS Grampian and Scottish Water. Representatives from other Council Services and infrastructure providers are invited to attend when required. This group also ensures that there is a strong evidence

## APPENDIX 1

base for which to seek developer obligations to avoid legal challenges and monitors the delivery of infrastructure and spending of developer obligations.

The following table contains the level of Developer Obligation received by the Council in 2017 and 2018.

	<i>2017</i>	<i>2018</i>
Revenue expenditure (dial-a-bus)	£6,750.00	£28,330.00
Health Care	£38,693.00	£121,890.00
Affordable Housing	£100,750.00	£3,750.00
Education	£21,417.00	£233,957.00
Community facilities	£9,481.00	£16,539.00
Lands and Parks	£18,586.00	£0.00
Sports & Recreation (3G pitch in Forres)	£1,189.00	£3,368.68
<b>TOTAL</b>	<b>£196,866.00</b>	<b>£407,834.68</b>

In addition to these Developer Obligations, money was also secured via legal agreements. The following table shows the level of contributions secured through legal agreements.

	<i>Secured in 2017</i>	<i>Secured in 2018</i>	<i>TOTAL</i>
Affordable Housing	£94,500.00	£110,000.00	£204,500.00
Primary Education		£3,726,645.00	£3,726,645.00
Secondary Education	£266,880.00	£848,250.00	£1,115,130.00
Health Care	£55,477.49	£1,108,227.00	£1,163,704.40
Sports & Recreation (3G pitch in Forres)	£16,035.00	£3,290.00	£19,325.00
Transportation	£186,000.00	£9,000.00	£195,000.00
<b>TOTAL</b>	<b>£618,892.49</b>	<b>£5,805,412.00</b>	<b>£6,424,304.40</b>

The following table shows the combined total of Developer Obligations received and contributions secured by legal agreements.

	<i>2017</i>	<i>2018</i>
Received	£196,866.00	£407,834.68
Secured	£618,892.49	£5,805,412.00
<b>TOTAL</b>	<b>£815,758.49</b>	<b>£6,213,246.60</b>

## **APPENDIX 1**

It is anticipated that the Supplementary Guidance will be updated and a draft presented to Committee in December 2019 with a review of the “cap” and consideration of developing the evidence base for other infrastructure topics.

Officers from Planning and Education are working together to identify the school estate requirements to 2035 to align with the LDP and anticipated growth.

### **Implications for LDP 2020**

- **Long term strategic approach to infrastructure planning; and**
- **Infrastructure to support growth identified in the LDP; and**
- **Consider developing evidence base for other infrastructure topics, subject to staff resources.**

### **Youth Engagement**

Significant work has been undertaken to engage with young people in the preparation of the MLDP 2020. Youth engagement was identified as a key area for improvement in the Communications Plan for the LDP 2020 as young people have generally been under represented in previous planning consultations.

The following are a variety of mechanisms that have been employed to engage young people;

- Short film competition. During the Main Issues Report all secondary schools were invited to make a short film setting out the main issues relevant to planning that young people in Moray are likely to experience. The film was won by Buckie High School and allowed the views of young people to be heard at public exhibitions and to a wider audience via social media;
- Place Standard. A series of Place Standard exercises were undertaken with a number of year groups and pupil forums in secondary schools. The views gathered were used to inform the policies and design concepts in the proposed plan;
- Short Films. Planning Officers scripted 5 short films to explain the key planning issues in Moray for the Main Issues Report consultation. The films were edited and produced by a pupil of Elgin Academy who added drone footage and music. The short films were an excellent tool in conveying the main planning issues at exhibitions and to the wider public via social media;
- Interactive mapping. Interactive mapping through touchscreen technology was used at during public exhibitions as a means to engage to a wider audience and appeal to younger people. The use of this technology resulted in many positive comments during the consultation.

A youth engagement strategy is currently being prepared by Officers in the Strategic Planning & Delivery team which aims to carry on from the progress made during the LDP 2020 consultation into the next plan period.

### **Implications for LDP 2020**

## **APPENDIX 1**

- **Continue to engage with young people utilising different engagement tools to promote the positive impact that planning can have on young peoples lives; and**
- **Engage with Education Services and schools to investigate further ways to engage primary and secondary school pupils and introduce planning exercises through the Curriculum of Excellence.**

### **Elgin Transport Strategy**

The Elgin Transport Strategy was approved by Moray Council at its meeting on 9 August 2017. The Strategy:-

- Sets out proposals for improvements to the transport network across the city over the next 13 years including roads, junctions, crossings and cycle routes;
- Develops ways to help people become more active, walking and cycling more often and promotes more use of public transport; and
- Helps to shape the future development of Elgin by contributing to the next review of the MLDP.

### **Implications for LDP 2020**

- **Elgin Transport Strategy to facilitate development and long term growth of Elgin; and**
- **Identification of essential transportation infrastructure requirements for identified sites and areas for future identified growth.**

### **Healthcare and Healthy Living**

Planning officers are working closely with officers from NHS Grampian to identify future healthcare requirements for GP's, dentists and pharmacy facilities. In addition to the land requirements for new healthcare facilities, new developments should promote active travel and healthy living with opportunities for active lifestyles including allotments, cycle and walking routes, sensory gardens, recreation and sports areas. Future healthcare is likely to require improved digital connections and it is important that new development supports this.

### **Implications for LDP 2020**

- **Improving health and well-being is embedded in policies for the next LDP;**
- **Continual improvement of urban design standards for new developments to promote healthy living and social interaction;**
- **Sites identified for future healthcare requirements so that it can be incorporated into LDP 2020;**
- **Support the Active Travel Strategy; and**
- **Support public health reform.**

### **Scottish Water**

## APPENDIX 1

Planning officers liaise with Scottish Water on a regular basis, discussing medium to long term growth and where infrastructure upgrades may be required. Ongoing discussions have highlighted that there are potential capacity issues in Elgin, Forres, Aberlour, Dallas and Keith and these areas will require growth projects to be initiated once criteria have been met.

### Implications for LDP 2020

- **Planning Officers to continue to liaise with Scottish Water through the LDP process to discuss newly identified sites and implications.**

### Local Review Body

The Planning (Scotland) Act 2006 and the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013 combined set out provisions covering local reviews for local developments to be conducted by a Local Review Body (LRB) of the Council. The Moray LRB has been in operation since 2009.

This Monitoring Report focuses on LRB reviews determined between June 2017 to August 2019 and the key trends that have emerged. In total, 44 cases have been reviewed since June 2017 which is 45% higher than was reported in the 2017 Monitoring Report. This is due to the period under consideration being longer than that which was part of the 2017 Monitoring Report. The table below shows that there was a 75/25% split between reviews being dismissed (refused) and upheld (approved).

	August 2015 – July 2016		August 2016 – May 2017		June 2017 – August 2019	
<b>Total Number of Cases</b>	38		20		44	
<b>Upheld (Approved)</b>	22	58%	10	50%	11	25%
<b>Dismissed (Refused)</b>	16	42%	10	50%	33	75%

Since May 2017, housing in the countryside proposals still account for the majority of LRB cases (55%). The table below shows that there have been more cases dismissed (79%), which is an increase from the 53% reported in the 2017 Monitoring Report. 10 cases relating to new/replacement dwellings within a settlement were considered, with 7 (70%) dismissed.

For the first time since 2013, there were three wind energy applications. Two were for single turbines in the countryside which were dismissed (67%) due to their detrimental impact on visual and landscape character as well as cumulative visual impact. One, located nearer residential properties, was upheld (33%) on the grounds that it would not add significantly to existing ambient noise.

Type of Application	No. of Reviews	Upheld	% Upheld	Dismissed	% Dismissed
<b>Housing in the Countryside</b>	24	5	21%	19	79%
<b>Commercial</b>	3	1	33%	2	67%

## APPENDIX 1

<b>Conservation Areas/Listed Buildings</b>	1	0	0%	1	100%
<b>Change of Use</b>	2	0	0%	2	100%
<b>Householder</b>	1	1	100%	0	0%
<b>New / Replacement Dwelling (Settlement)</b>	10	3	30%	7	70%
<b>Wind Energy</b>	3	1	33%	2	67%

## APPENDIX 1

### Summary of Local Review Body (LRB) Cases

<b>Period</b>	<b>June 2017 – August 2019</b>
<b>Total Number of Reviews</b>	<b>44 (75% dismissed)</b>

### Cases

<b>Case No.</b>	<b>Planning Application</b>	<b>Type of Application</b>	<b>Reason for Refusal</b>	<b>Review Outcome</b>	<b>Date of Decision</b>
181	16/01542/APP - Erect 2 dwellinghouses and associated works at Plots CP1 and CP2, Horticultural Production Centre, Dallas	Housing in the Countryside	Build-up; detriment to rural character	Upheld and planning permission granted, subject to standard/consultee conditions	08/08/2017
182	16/01901/APP - Demolition of Existing Commercial Building and Erect 2 Dwelling Houses on Garage Site at Chapel Lane, Lossiemouth	New / Replacement Dwelling (Settlement)	Overdevelopment; loss of privacy and amenity	Dismissed and planning permission refused	08/08/2017
183	17/00146/PPP - Erect Dwellinghouse on Site 300M North East Of Glenlatterach Farm, Elgin	Housing in the Countryside	Obtrusive development; detriment to character and amenity	Upheld and planning permission in principle granted, subject to standard/consultee conditions	06/10/2017
184	17/00358/PPP - Erect dwellinghouse and garage on Site East of Westbank Farmhouse, Roseisle	Housing in the Countryside	Build-up; detriment to rural character	Upheld and planning permission in principle granted, subject to standard/consultee conditions	19/09/2017
185	17/00230/APP - Proposed alterations and first floor extension to existing bothy at Rose Haven Cottage, 17 Lower Blantyre Street, Cullen	Conservation Area	Adverse effect on the appearance and character	Dismissed and planning permission refused	25/10/2017



## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
186	17/00400/PPP - Erect a new dwelling house at Lady Haugh Site, Arndilly, Craigellachie	Housing in the Countryside	Loss of native woodland; detriment to rural character	Dismissed and planning permission refused	25/10/2017
187	17/01001/APP - Proposed erection of dwelling-house with integrated garage, Dufftown View, Craigellachie	Housing in the Countryside	Build-up; ribbon development; detriment to rural character	Dismissed and planning permission refused	25/10/2017
188	17/00590/APP - Erection of bungalow within garden ground at Rosemount, 5 Mayne Road, Elgin	New / Replacement Dwelling (Settlement)	Loss of existing formal on-street parking; road safety	Dismissed and planning permission refused	09/02/2018
189	17/00044/APP - Proposed change of use of domestic garage to commercial garage for the conversion of Volkswagen vans to camper vans at 17 Cathay Terrace, Cullen	Change of Use	Inappropriate land use; detriment to character and amenity; adverse noise impact.	Dismissed and planning permission refused	09/11/2017
190	17/00576/APP - New house on site adjacent to Laverock Brae, Wester Gauldwell House, Craigellachie	Housing in the Countryside	Obtrusive development; ribbon development; detriment to character	Dismissed and planning permission refused	09/11/2017
191	17/00735/APP - Erect dwellinghouse on site west of Kempston House, Maverston, Urquhart	Housing in the Countryside	Proximity to settlement boundary; lack of required visibility splay	Dismissed and planning permission refused	13/12/2017
192	17/01252/APP - Proposed erection of dwelling-house with integrated garage at Upper Moray Firth, Hilton Farm, Buckie	Housing in the Countryside	Build-up; detriment to character	Dismissed and planning permission refused	13/12/2017

## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
193	17/01401/APP - Change of use of former barbers shop to hot food takeaway at 1 Springfield Road, Elgin	Commercial	Insufficient on-site vehicular parking; road safety	Upheld and planning permission granted, subject to standard/consultee conditions	08/03/2018
194	17/01287/APP - Proposed erection of dwelling-house with integrated garage at Lower Ringorm, Elchies, Craigellachie	Housing in the Countryside	Build-up; obtrusive development; detriment to character	Dismissed and planning permission refused	09/02/2018
195	17/01515/APP - House build and temporary siting of caravan at Speyview Dundurcas, Orton	Housing in the Countryside	Use of visibility restricted access; road safety	Dismissed and planning permission refused	12/03/2018
196	17/01220/APP - Demolish office building and erect 10no. units flatted development (as amended) at Moray Housing Partnership, Clifton Road, Lossiemouth	New / Replacement Dwelling (Settlement)	Obtrusive development; detriment to character; unacceptably dominate the setting of adjoining listed buildings; adverse impact on amenity of neighbours	Dismissed and planning permission refused	12/03/2018
197	17/01522/APP - Proposed Erection of dwelling-house with detached garage at Upper Birnie View, Wardend, Birnie	Housing in the Countryside	Build-up; unviable means to control access; road safety	Dismissed and planning permission refused	16/04/2018
198	17/01460/APP - Proposed dwelling-house and garage at Delene, Aberlour	Housing in the Countryside	Proximity to settlement boundary; development sprawl into countryside; detriment to setting	Dismissed and planning permission refused	12/03/2018

## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
199	17/01619/APP - Change of use from dwelling-house to House of Multiple Occupation (HMO) for student accommodation at 18 South Guildry Street, Elgin	Commercial	Insufficient on-site vehicular parking; road safety	Dismissed and planning permission refused	16/04/2018
200	17/01591/APP - Install an Orenda 49kw wind turbine (rotor diameter 18.9M) on Land at Fieldhead, Newmill, Keith	Wind Energy	Detriment to visual and landscape character; cumulative visual impact and clutter	Dismissed and planning permission refused	09/05/2018
201	17/01602/APP - Proposed erection of dwelling-house with detached garage at Drakemyres Heights, Upper Drakemyres Farm, near Keith	Housing in the Countryside	Ribbon development; detriment to character; does not constitute sustainable economic growth that protects the natural and built environment	Dismissed and planning permission refused	16/04/2018
202	17/01546/APP - Install a Orenda 49kw wind turbine [33.47m high to blade tip, rotor diameter 18.9m] at Land at Mains of Pitlurg, Keith	Wind Energy	Detriment to visual and landscape character; cumulative visual impact and clutter	Dismissed and planning permission refused	09/05/2018
203	17/01861/APP - Proposed erection of dwelling-house with integrated garage at Hilton Gables, Hilton Farm, by Buckie	Housing in the Countryside	Build-up; detriment to character, appearance and amenity	Dismissed and planning permission refused	16/04/2018

## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
204	17/01521/PPP - Erection of 2no dwellinghouses at Seapark House, Kinloss	New / Replacement Dwelling (Settlement)	Build-up that would detract from setting of listed building; loss of, and impact upon, environmental designation (ENV2); flood risk; inappropriate scale, density and character	Dismissed and planning permission refused	09/05/2018
205	17/01775/APP - Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin	New / Replacement Dwelling (Settlement)	Significant intensification of existing access where visibility is severely restricted; road safety; noise pollution	Dismissed and planning permission refused	22/06/2018
206	18/00015/APP - Erect two storey dwellinghouse with off street parking at Plot 30, Highfield Gardens, Steinbeck Road, Buckie	New / Replacement Dwelling (Settlement)	Detriment to scale and character	Upheld and planning permission granted, subject to standard/consultee conditions	22/06/2018
207	18/00246/APP - Erect 2 Dwellinghouses within Grounds at Torrieston House, Torrieston, Pluscarden	Housing in the Countryside	Build-up; ribbon development; detriment to character	Dismissed and planning permission refused	17/09/2018
208	18/00227/APP - Change of use of amenity land to garden ground at Ferndale, Mains of Buckie, Buckie	Change of Use	Loss of environmental designation (ENV6)	Dismissed and planning permission refused	17/09/2018
209	18/00383/APP - Erect dwelling house on site in garden ground of Ingleside, St Aethans Road, Burghead	New / Replacement Dwelling (Settlement)	Tandem backland development; loss of residential amenity; detriment to character	Upheld and planning permission granted, subject to standard/consultee conditions	17/09/2018

## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
210	18/00581/PPP - Erect a dwelling house and detached garage on a site north of Dowalls Croft, Craigellachie	Housing in the Countryside	Build-up	Dismissed and planning permission refused	17/09/2018
211	18/00417/APP - Proposed dwellinghouse and garage on Plot CP1, Adjacent to Muir of Ruthrie, Aberlour	Housing in the Countryside	Proximity to settlement boundary; development sprawl into countryside; detriment to setting	Dismissed and planning permission refused	17/09/2018
212	18/00542/APP - Operate childminding business from dwelling at 6 Holyrood Drive, Elgin	Commercial	Significant intensification of use; detriment to residential amenity; insufficient on-site vehicular parking; road safety	Dismissed and planning permission refused	19/12/2018
213	18/00694/APP - Installation of 6kW Kingspan wind turbine (22.8m to tip and rotor diameter 5.6m) at Inchmore, Drybridge, Buckie	Wind Energy	Noise pollution; detriment to amenity of nearby residential property	Upheld and planning permission granted, subject to standard/consultee conditions	22/10/2018
214	18/00626/APP - Erect dwelling house and associated works at land adjacent to Crannoch Lodge, Grange, Crossroads, Keith	Housing in the Countryside	Ribbon development; obtrusive development	Upheld and planning permission granted, subject to standard/consultee conditions	30/11/2018
215	18/00659/APP - Erect new dwelling house at a plot at Deerhill, Grange, Keith	Housing in the Countryside	Obtrusive development; detriment to character, appearance and amenity	Dismissed and planning permission refused	30/11/2018
216	18/00628/PPP - Erect dwelling house on site adjacent to Bracobrae, Grange, Keith	Housing in the Countryside	Ribbon development; detriment to character, appearance and amenity	Dismissed and planning permission refused	09/01/2019

## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
217	18/00795/APP - Erect new rendered blockwork garage and install patio door in house at Bundon, Findhorn	New / Replacement Dwelling (Settlement)	Flood risk	Upheld and planning permission granted, subject to standard/consultee conditions, a condition that the development can never be changed to a residential property and an informative to reflect that Moray Council would not protect the garage property from flooding in the future, given that it had been built on a flood plain.	18/03/2019
218	18/01207/APP - Erect extension at 13 Bishops Court, Lossiemouth	Householder	Detriment to amenity of neighbouring occupiers; loss of daylight and sunlight; loss of residential amenity	Upheld and planning permission granted, subject to standard/consultee conditions	22/04/2019
219	18/01280/APP - Proposed 3 Apt Dwelling House at the Rear of 96 Moss Street (off "Sodgers Lane"), Keith	New / Replacement Dwelling (Settlement)	Plot size; intrusive impact on site and surrounding areas	Dismissed and planning permission refused	25/03/2019
220	18/01323/APP - Erect new garage at Kimberlee, Rothes	Housing in the Countryside	Flood risk	Upheld and planning permission granted, subject to standard/consultee conditions	21/05/2019
221	18/00862/APP - Erect dwelling house and associated works at a Site at Kirkton Cottage, Alves	Housing in the Countryside	Obtrusive development; build-up; detriment to character, appearance and amenity	Dismissed and planning permission refused	20/05/2019
222	18/01576/APP - Convert part of bar to 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin	New / Replacement Dwelling (Settlement)	Significant intensification of existing access where visibility is severely restricted; road safety; noise pollution	Dismissed and planning permission refused	25/06/2019

## APPENDIX 1

Case No.	Planning Application	Type of Application	Reason for Refusal	Review Outcome	Date of Decision
223	18/01495/PPP - Erect single dwelling house and garage on Site Within Grounds of Hillwood, Carron, Aberlour	Housing in the Countryside	Build-up; detriment to character	Dismissed and planning permission refused	31/07/2019
224	18/01478/APP - Erect single storey dwellinghouse within grounds of Torrieston House, Pluscarden	Housing in the Countryside	Obtrusive development; ribbon development; build-up; detriment to character, appearance and amenity	Dismissed and planning permission refused	31/07/2019

