

21/00809/APP
26 May 2021

Erection of new footbridge over River Lossie between Esplanade and East Beach to replace existing footbridge between Seatown and East Beach on Site Opposite 17C Clifton Road Lossiemouth Moray for Moray Council

Comments:

- The application is reported to Committee because the appointed officer considers that the application raises matters of wider community interest and/or planning significance.
- The application has been advertised for neighbour notification purposes and as land ownership is unknown.
- One representation has been received.

Procedure:

- None

Recommendation Grant planning permission subject to conditions:

Conditions/Reasons

1. 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 Council, as 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 WSI will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Council, as 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.

2. Notwithstanding the submitted details, no works in connection with the development hereby approved shall commence unless the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
- a) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications, materials and timescale for the provision of pedestrian and cycle routes from the south of The Esplanade side of the new bridge, including the provision of new paths and the widening of existing paths, to ensure minimum widths of 3.0 metres for any routes to be used by cyclists, and an enhanced circulatory area where the new bridge meets The Esplanade at Clifton Road. Dropped kerbs and tactile paving are to be provided at all locations where the route(s) meet with or cross the public road and 'Ladder'/'Tramline' paving is to be provided at all locations where pedestrian only routes meet with shared pedestrian/cycle routes. (Note: On existing routes which are to be utilised by cyclists and/or wheelchair users, 'cobble' and other uneven surfaces must be reviewed and, if necessary, replaced with a surface suitable for wheeled users).
 - b) Detailed drawings (Scale 1:200 minimum) showing the longitudinal sections of all new and widened paths connecting to the existing paths and to the circulatory area at The Esplanade end of the new bridge to demonstrate that gradients are compliant with mobility standards. Cross Section drawings (Scale 1:100 minimum) showing any required re-grading of slopes adjacent to the new/widened paths and the location and design specification for any required ground retaining features.
 - c) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of a cycle route utilising Clifton Road and the adjacent improved paths to provide access for cyclists travelling from the A941 to the new bridge, including all signage, road markings and dropped kerbs to direct and aid cyclists travelling to the bridge and nearby cycle parking.
 - d) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of wayfinding signage for pedestrians and cyclists from the northern and southern approaches to the new bridge, in particular from the Gregory Place and Station Car Parks and from the A941 (Clifton Road).
 - e) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of additional signage directing road users from the A941 Elgin Road to the Public Car Parks within Lossiemouth and the relocation of the existing road signage on the southern side of Seatown Ring Road/Church Street to the rear of the proposed new footway at the Gregory Place Car Park.
 - f) Detailed drawings (Scale 1:500 minimum) showing the design specifications, materials and timescale for the provision of a new footway connecting the Gregory Place Car Park to Seatown Ring Road/Church Street on either the eastern or western side of the existing vehicular access.

Thereafter the improvements to pedestrian and cycle access and signage shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure provision of safe and suitable access to the bridge for

pedestrians (including those with mobility impairments) and cyclists in the interest of road safety.

3. No works in connection with the development hereby approved shall commence unless the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority regarding:
 - a) A Construction Traffic Management Plan which shall include the following information:
 - i) Construction Programme, including start date and duration of works;
 - ii) Details of the location of a site compound for the storage of materials, equipment, staff parking, deliveries and the provision of welfare facilities;
 - iii) Measures to be put in place to prevent material being deposited on the public road;
 - iv) Measures to be put in place to safeguard the movements of pedestrians and cyclists;
 - v) Traffic management measures to be put in place during the works, including any specific instructions to drivers, including delivery drivers.

And

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

Thereafter the development 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 and construction vehicles during construction works at the site, and in the interests of road safety and the amenity of the area/adjacent properties.

4. The development hereby approved shall be carried out in accordance with the mitigation measures specified in section 5 of the Preliminary Ecological Survey by Walking the Talk dated 21 October 2020 approved as part of this application.

Reason: In order to ensure the development is carried out with minimal impact on species that may potentially be present in and around the development site.

5. Within one month of completion of works or first use of the bridge (whichever is

the soonest) evidence shall be submitted to the Council, as Planning Authority, that shows as built drawings of the bridge have been submitted to the UK Hydrographic Office (Admiralty Way, Taunton, Somerset, TA1 2DN) for their records.

Reason: To ensure the UK Hydrographic Office charts can be updated timeously, in the interests of navigational safety of mariners.

Reason(s) for Decision

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

The proposed bridge would be sited and designated appropriate for its location, and would not have a detrimental impact on the character and amenity of the surrounding area. Suitable upgrades are proposed in order to ensure local footpaths and road infrastructure can safely serve the proposed bridge. In this regard, the proposal is in accordance with the provisions of the Moray Local Development Plan 2020 (MLDP).

Half of the bridge would fall outwith the settlement boundary of Lossiemouth, as defined in the MLDP and also sits within the Lossiemouth to Portgordon Coast Special Landscape Area designation. Policy EP3 – Special Landscape Areas only permits development outwith defined settlements in certain circumstances, and the proposal is not covered under any of the permitted uses specified in the policy for rural areas (i.e. those outwith defined settlement boundaries). Policy EP6 – Settlement Boundaries does not permit any development immediately outwith the settlement. However, the supporting information provided with the application demonstrates the significant benefits the proposal will have for the local economy. The proposal will also improve public access to a valued amenity, with subsequent benefits for health and wellbeing. The proposal is considered to be an acceptable departure from these policies in unique circumstances and is unlikely to set a precedence for development elsewhere that would be contrary to these policies.

List of Informatives:

The NORTHERN LIGHTHOUSE BOARD have commented that:-

Marine safety information and a local Notice to Mariners must be issued to water users and a copy provided to the Northern Lighthouse Board prior to and during the course of works in the construction of the bridge.

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 provide all technical information, including drawings and drainage calculations, to be reviewed. Upon completion of the development the application is obliged to provide As Built drawings to enable the inclusion of the works on the asset management database

and GIS layers. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk

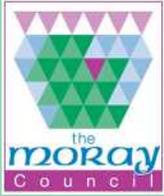
Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing roadspermits@moray.gov.uk

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.

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.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
BB2020-PL-001	00	Location plan
BB2020-PL-003	00	Constraints plan
BB2020-PL-005	00	Proposed drainage layout and details
BB2020-PL-008	P01	Landscape plan
BB2020-PL-004	P01	Proposed fencing
BB2020-PL-002	P02	Proposed footbridge general arrangement
BB2020-PL-006	P02	Proposed kerbs footways paved areas and signs
BB2020-PL-007	P03	Proposed kerbs footways paved areas and signs



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
21/00809/APP

Site Address:
Site Opposite 17C Clifton Road
Lossiemouth

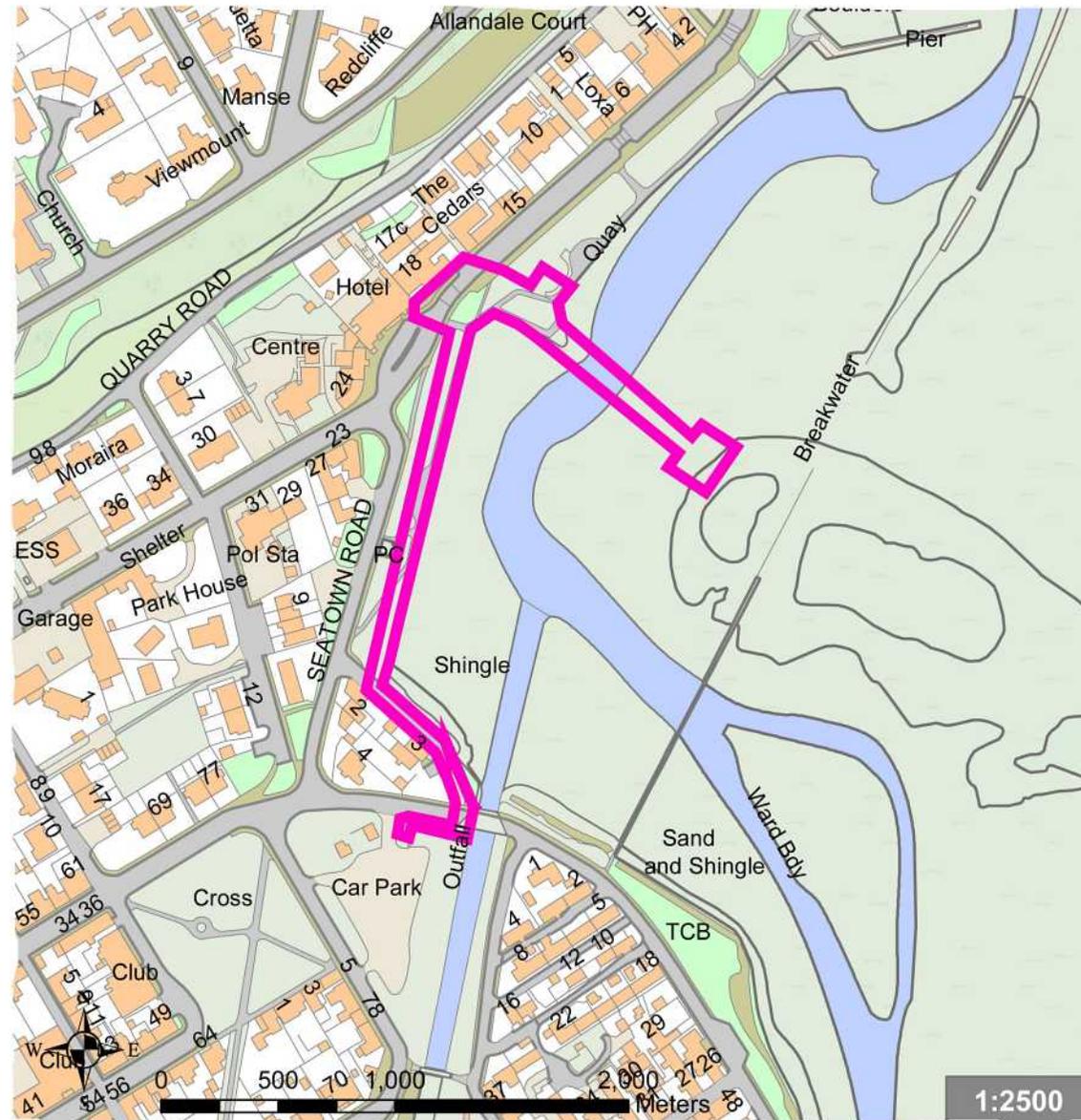
Applicant Name:
Moray Council

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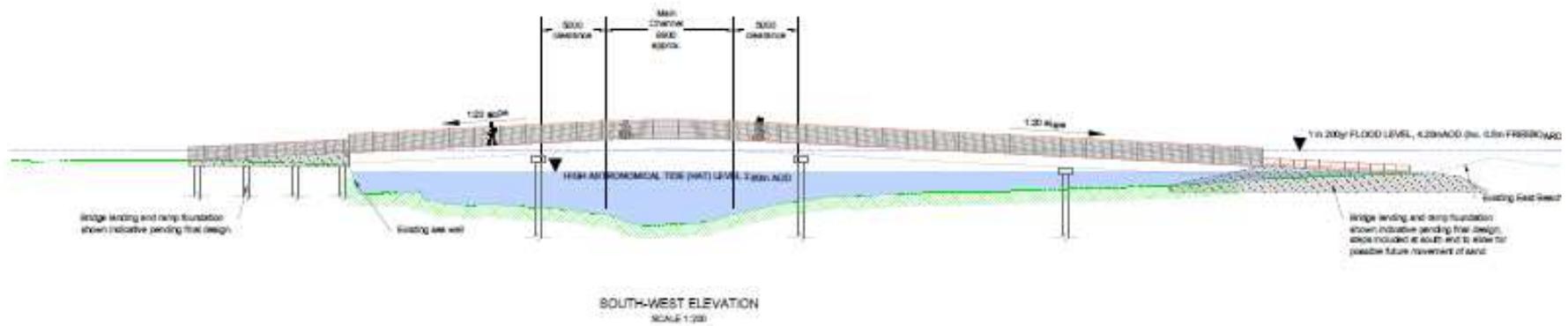
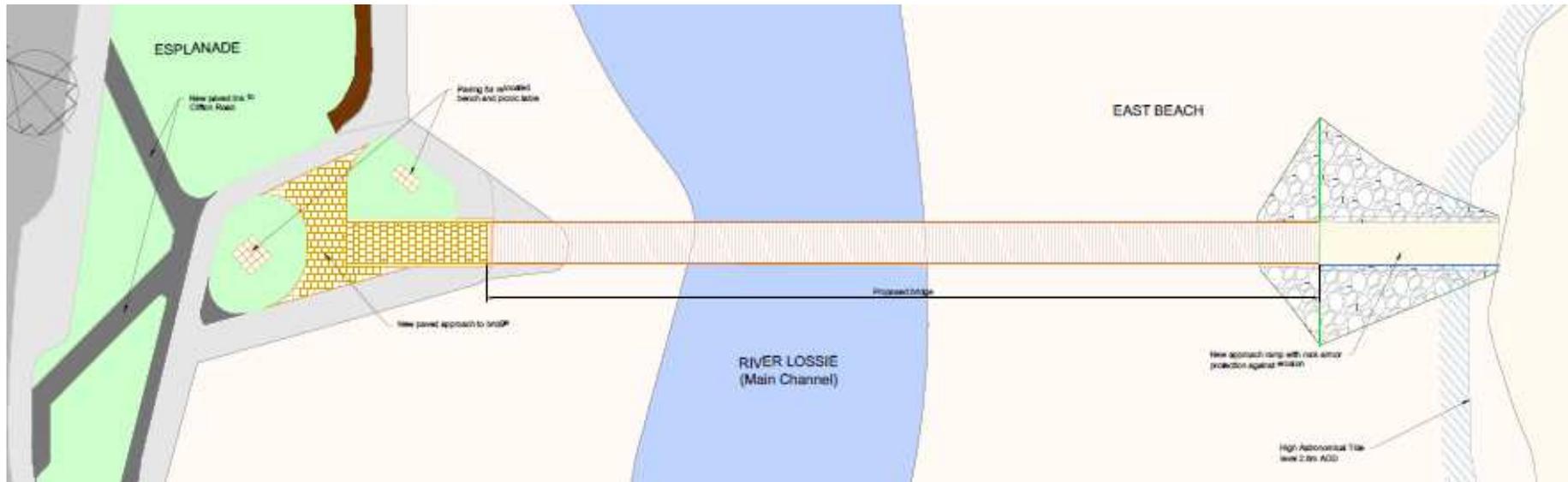
Location Plan



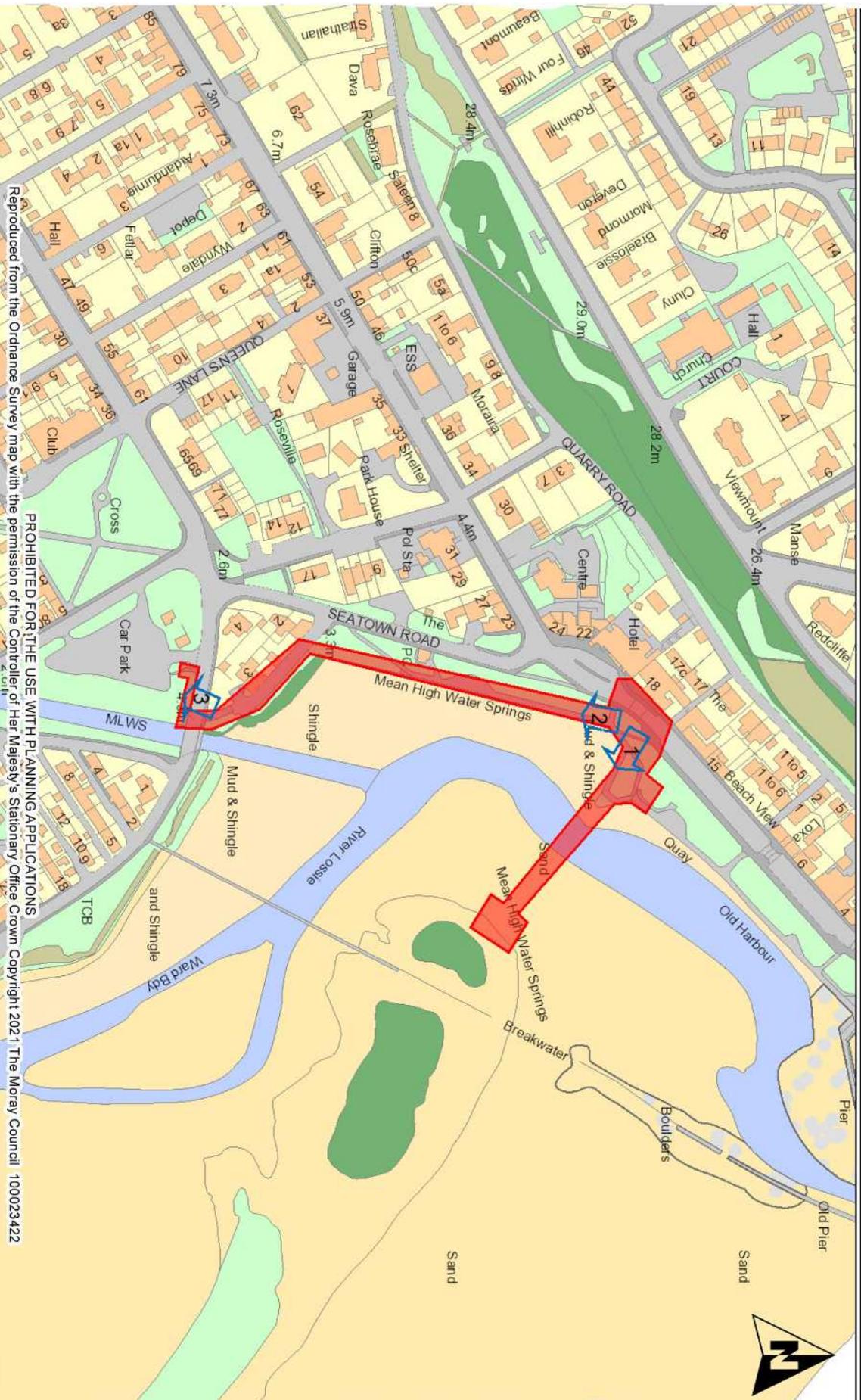
Site Location



General arrangement



21/100809/APP - Photograph Positions



Map Description: Arrows point in direction photograph was taken

PROHIBITED FOR THE USE WITH PLANNING APPLICATIONS
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Scale: 1:2,500 @ A4



Photo 1—Position of proposed bridge from Esplanade



Photo 2— Path to be upgraded



Photo 3— Car Park



PLANNING APPLICATION: 21/00809/APP

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

THE PROPOSAL

- Erection of a footbridge across the River Lossie between the Esplanade and East Beach, Lossiemouth, with associated path and crossing upgrades in the Esplanade area.
- The bridge would have a span of approximately 75 metres in length and be in an arched form, with a gradient of 1:20. It would have a 3.5 metre wide footway with 1.4 metre high parapets. Bollards to prevent vehicular access will be placed at the end of the bridge.
- Steelwork for the bridge would be finished in fluoropolymer coating with the decking boards made of wood effect composite materials.
- The bridge would sit atop pile driven columns along its length and connect into ramps built either side. Rock armour would surround the landfall and ramps on the beach side of the bridge.
- On approach to the proposed bridge, new footpaths would be installed and existing footpaths upgraded to serve the bridge. The footpath to the south between the proposed bridge and the Seatown Road/Church Street car park would be widened, whilst improved pedestrian arrangements would be installed around the car park (where there is currently no formal arrangement for pedestrians using the car park).

THE SITE

- The Esplanade side of the bridge would be located in the area where the seawall currently protrudes out towards the River Lossie.
- The beach side would make landfall on the western side of the dunes closest to the River Lossie and Esplanade.
- The site subject to this application previously housed a bridge to the East Beach but this was move further upstream to the location of the existing bridge at the Seatown in 1915.
- The existing (now closed) bridge does not form part of nor fall within the area subject to this application.
- The site lies within the Lossiemouth to Portgordon Coast Special Landscape Area of the Moray Local Development Plan 2020 (MLDP), whilst the settlement boundary for Lossiemouth (as designated in the MLDP) runs down the middle of the River Lossie.
- Paths along the Esplanade and Seatown Road subject to this application are a Core Path (MC10) and form part of the Moray Coastal Trail.

HISTORY

No specific planning history but the following is considered relevant:

July 2019 – The existing bridge to East Beach was closed by Moray Council due to concerns about stability of structure and a potential impact on public safety. Subsequent investigations found the bridge to be unsafe and it has remain closed since.

September 2019 – The Scottish Government confirm funding to erect a new bridge.

December 2019 – Moray Council agreed in principle to take ownership of a new or refurbished bridge on completion of construction; commit staff resources to progress an Option Appraisal; and submit a report to Council on the outcome of the Option Appraisal (minute of Moray Council meeting of 17 December 2019 refers).

May 2021 – at a meeting of Moray Council (minute of meeting of 12 May 2021 refers), members agreed:

- 1) to note that the Scottish Government has agreed to fund the preferred option of the Option Appraisal to erect a new footbridge between the Esplanade and East Beach, Lossiemouth;
- 2) to providing staff resources to progress delivery of the design and construction of the replacement footbridge from Lossiemouth to East Beach;
- 3) to give delegated authority to the Legal Services Manager to prepare and sign all Compulsory Purchase Order documentation and to take all necessary steps, including publication of all statutory notices, to secure confirmation of the Order by Scottish Ministers and the vesting of the land in the Council, if required;
- 4) that the Council take ownership of the new bridge on completion of construction; and
- 5) to use section 20 of the Local Government in Scotland Act 2003 to demolish the old bridge at the same time as building the new one at a cost of £69k with the cost to be met from reserves.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised for neighbour notification purposes and unknown land ownership.

CONSULTATIONS

Contaminated Land – No objections.

Aberdeenshire Archaeology Service – The proposed application lies within and affects the archaeology site NJ27SW0011, the remains of the old harbour/port of Lossiemouth which is thought to have its origins in the medieval period. There is also the potential for fragments of wrecked vessels to survive within this area. As such a condition is recommended requiring the submission of a Written Scheme of Investigation to be agreed with the Council. This will detail archaeological mitigation necessary to be undertaken as part of the development. The exact specification of mitigation works will be dependent on the construction methodology, but effectively any/all groundbreaking works, above and, potentially, below the water, (including any GI/geotechnical investigation) should be subject to archaeological monitoring.

Moray Flood Risk Management – No objections. Content with the findings of the Flood Risk Assessment and there will be no increased risk of flooding to the surrounding area.

SEPA – No objection on flood risk grounds. Advice given on freeboard height to take account of climate change.

NatureScot – The seas around Lossiemouth form part of the Moray Firth Special Area of Conservation (SAC) and Moray Firth Special Protection Area (SPA). The proposal is not considered to impact on their qualifying interests directly or indirectly therefore appropriate assessment is not required.

Environmental Health – No objections.

Marine Scotland – No comments to make on the application.

Moray Access Manager – No objections. The closure of the old bridge severed the Moray Coast Trail which is one of Scotland's Great Trails. The route is an important tourism resource but is currently diverted along a circuitous route which uses part of a busy main road where there is no pavement. This makes the route less attractive to use so the new bridge is most welcome to connect Lossiemouth once more with its iconic beach and to ensure the Moray Coast Trail is properly linked again. The old bridge is part of a statutory Core Path so a legal process will be required to divert this across the new bridge. (NOTE – this does not form a requirement under this application and is a separate matter).

Northern Lighthouse Board – No objections, but recommend that marine safety information and a Notice to Mariners be issued by Moray Council prior to and during works to erect the bridge, and on completion As Built drawings be issued to the UK Hydrographic Office.

Maritime and Coastguard Agency – No objections, note that a Marine Licence will likely be required and therefore that will consider the impact of the bridge on other marine users/ vessels operating in the area, and that at this location it is relatively shallow waters and vessels are unlikely to 'navigate' that site, although leisure craft users are expected.

Transportation Manager – No objections subject to conditions ensuring appropriate paths and signage are in place to serve the proposed bridge. Informative notes also provided.

Strategic Planning and Development – Proposal is a departure from Settlement Boundary Policy EP6 and Special Landscape Area Policy EP3 however acceptable departures from these policies can be justified. Comments provided on need for appropriate matching surfacing of widened sections of paths at Esplanade.

Consultations were requested from the following bodies and no comments have been received at time of writing report:

- Lossiemouth Community Council
- Crown Estate Scotland
- Findhorn, Nairn and Lossie Fisheries Trust

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).

The issues raised can be summarised as follows:

The representation received made the following comments in relation to a number of planning applications and not solely this application.

Issue: Need to consider the impact of the proposal on flora and fauna, in particular hedgehogs, moles and nesting birds.

Comments (PO): The proposal is not considered to have an adverse impact on flora and fauna, noting the ecological survey provided with the application identifies an overall low risk with appropriate mitigation.

Issue: Landscaping should favour butterflies and moths.

Comments (PO): Landscaping proposed is considered commensurate with the proposal.

Issue: Comments in relation to wind farm applications.

Comments (PO): Not relevant to 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 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below.

Sustainable Economic Growth (PP2)

Policy PP2 – Sustainable Economic Growth supports development proposals that support the Moray Economic Strategy where the quality of the natural and built environment is safeguarded, there is a clear locational need and potential impacts can be satisfactorily mitigated. Tourism is identified as key growth sector in the Moray Economic Strategy with the aim to double tourism spend by 2025.

The proposed bridge will form an important link for visitors to regain access to the East Beach, one of the key attractions in Lossiemouth. In terms of locational need the Option Appraisal submitted with the application sets out the various options explored and the reasons for the location chosen. It also notes that this is a replacement bridge and therefore a location within a similar area to the existing bridge is required to address the impacts of the bridge closure.

The supporting business case submitted with the application identifies that the closure of the existing footbridge to the East Beach resulted in a mainly negative economic impact on local businesses. The Economic Impact Assessment identifies a positive impact for

the local economy, estimating the visitor spend associated with the proposed bridge to be in the region of £1.5million, equating to 30 full time equivalent (FTE) jobs.

Taking account of these considerations, as well as the evaluation outlined below in relation to the bridges impact, the proposal is considered to comply with the requirements of policy PP2.

Placemaking (PP1)

The beaches of Lossiemouth are main visitor attractions for locals and tourists. Access to the East Beach is therefore a key element to the success of Lossiemouth as a tourist destination, as well as being a valued local amenity. Policy PP1 – Placemaking, requires a placemaking approach to all new development. This includes the requirement for development to be designed to create successful, healthy places that safeguard the environment and support economic development. The Settlement Statement for Lossiemouth in the MLDP also identifies the need to protect and support new tourism opportunities.

The creation of a new bridge would enable easier and direct access from Lossiemouth to the beach once more, supporting active lifestyles (walking and water sports) with a subsequent benefit to physical and mental health. It is anticipated that the bridge will bring an increase in visitors to Lossiemouth and the wider area. The economic benefits as described above under policy PP2 are also noted.

Whilst placemaking is generally more focused on larger developments (e.g. housing), the proposed bridge and its functional purpose will add to the well-established and distinct character of Lossiemouth's Esplanade, as well as its success as a local amenity and visitor attraction. Accordingly there is no conflict with policy PP1.

Settlement Boundary (EP6)

The site of the proposed bridge straddles the settlement boundary of Lossiemouth, as designated in the MLDP, with half of the bridge (beach side) falling outwith the settlement boundary. Policy EP6 – Settlement Boundaries does not permit any new development adjacent to the boundary unless it is designated as LONG (generally housing and industrial land) and it has met the criteria for being released for development. This policy is in place to ensure development is directed into settlements and to ensure distinction is maintained between built up areas and their surrounding countryside.

The proposal is a replacement bridge and construction of this outwith the settlement is inevitable to achieve the connection between the town and the beach. Whilst the bridge will encourage greater use of the beach for recreation it would not encourage further built expansion outwith the settlement boundary and the distinction between the built up area and countryside would be maintained. The proposal is therefore considered to be an acceptable departure from policy EP6.

Special Landscape Area (EP3)

The bridge structure falls largely within the Lossiemouth to Portgordon Coast Special Landscape Area. Policy EP3 – Special Landscape Areas and Landscape Character has a number of requirements for development within settlements, as well as separate requirements for those in rural areas (i.e. outwith a defined settlement). As the proposal straddles the settlement boundary, both portions of the policy must therefore be considered.

As a whole, policy EP3 requires all development to not prejudice the special qualities of designated areas, whilst ensuring the highest standard of design and compliance with relevant policy DP1 and other relevant policies. Within settlements, EP3 requires all development to conform to the requirements of settlement statements, policies PP1, DP1 and PP3 as appropriate, whilst also ensuring that proposals reflect the traditional settlement character in terms of siting and design.

Taking account of the considerations above and below in relation to a variety of matters, including the design and siting of the bridge, the proposal is considered to comply with this element of policy EP3.

However for development in rural areas policy EP3 only permits development for certain specified uses. The proposed bridge is not covered by any of the specified uses. It is noted that this is a replacement structure for an important piece of local infrastructure. As described above the bridge is a key visitor asset and therefore linked to the tourism sector (a key growth sector identified in the Moray Economic Strategy). It plays an important economic role for various businesses within Lossiemouth. Restoring easy access to East Beach is also important for health and wellbeing. As set out above under considerations against policy PP2 there is a clear locational need for the bridge at this location and alternative options have been explored.

The Moray Local Landscape Designation Review states that Lossiemouth is a key feature that is seen from beaches due to its location on a headland elevated above the coast. Given the purpose and function of the bridge there are limited means to integrate this within the landscape and it will be visible from many aspects. Nevertheless it will be associated with the back drop of built development in Lossiemouth. The projection from the sea wall at this location also reduces the bridge span and therefore its potential visual impact.

In light of the foregoing evaluation, particularly in relation to sustainable economic growth and the need for direct access to be enabled to a valued local amenity once more, a departure from policy EP3 is considered acceptable in this instance.

Design and Siting (DP1)

Policy DP1 – Development Principles requires all development to be of a scale, density and character appropriate to the surrounding area. Overall the design of the bridge is functional to take account of its purpose. It will inevitably be a significant feature of the landscape around the mouth of the River Lossie and the Esplanade area of Lossiemouth due to its prominent location. However in time it will become part of the local landscape, and given its prominence (and likely importance to visitors and locals) may become a local landmark.

Additional and widened footpaths have been proposed in the surrounding area to take account of the bridge bringing additional pedestrians to the Esplanade area in light of consultation with the Transportation Manager. Points of clarification/detail require to be addressed in light of the Transportation Manager's comments (see below under Pedestrian Access/Parking), and conditions will be placed in relation to this. These, in their own right, address the comments raised by Strategic Planning and Development in relation to surfacing materials and quality of public realm works. Subject to this condition, and given the suitability of the bridge as proposed, the proposal is considered to comply with policy DP1.

Open Space (EP5)

The Esplanade side of the bridge would occupy an area of the ENV1 Station Park and Esplanade designation of the Lossiemouth Settlement Statement of the MLDP. Policy EP5 – Open Space is in place to protect such areas from development to ensure their purpose as open space remains. The proposed bridge would not alter the existing function of the area which is primarily for amenity and access and it may potentially widen the use of the ENV. The proposal therefore complies with policy EP5.

Flooding (EP12)

The position of the bridge means it will be within areas at risk of flooding from the sea (high tide and storm surges) as well as fluvial (river) flooding from the River Lossie. The Flood Risk Assessment submitted with the application found there was no additional flood risk to the surrounding area by siting a bridge in this location. Moray Flood Risk Management and SEPA raised no objections to the application. Comments from SEPA are noted regarding the freeboard level and need to take account of climate change, however flooding at the levels outlined in their response would see significant flooding to the Esplanade/Seatown area. The bridge has been designed to allow flood water to flow through it should such a significant flood event occur. This includes the use of tensioned wires along the parapet that can be easily replaced and at a reasonable cost should they be damaged. As a result, the proposal complies with policy EP12 – Management and Enhancement of the Water Environment in relation to flood risk.

Pedestrian Access and Car Parking (PP3)

Policy PP3 requires all development to be planned and co-ordinated with existing and proposed infrastructure and services to ensure development is appropriately serviced. To support access to the bridge by pedestrians and cyclists as well as increased numbers of these, the Esplanade area at Clifton Road will require a re-design with the provision of new and/or widened paths, circulation areas and planted areas. Improvements to pedestrian and cycle access from the south and the Gregory Place car park are also required, the final details of which are yet to be agreed.

When initially submitted, this planning application included the replacement of the existing zebra crossing on Clifton Road with a signal controlled crossing. However the estimated pedestrian movements in this area provided in the Pedestrian and Transport Assessment supporting this planning application indicate that the retention of the zebra crossing (which is also more visually in keeping with the area) would be acceptable. This application was subsequently amended to remove the signal controlled crossing.

A number of conditions have been recommended by the Transportation Manager to ensure paths and crossing are provided to a suitable standard, addressing the points outlined above. These will also ensure appropriate signage is in place for all road users (including vehicles on approach to the Esplanade via the A941 Elgin Road).

The existing bridge and path along the Esplanade are designated a core path. The Moray Access Manager requested that the existing core path be diverted from the existing bridge and to the proposed bridge with the diversion process dealt with via the planning process. However this cannot be carried out within the realms of this application and is a separate matter as the existing bridge and any demolition of it does not form part of this application (nor does it require planning consent in its own right). The section of the core path along the Esplanade will be retained as part of the proposed development.

Overall, and subject to conditions as recommended, the proposal is considered to provide sufficient infrastructure to take account of the additional pedestrian and cycle movements associated with the proposed bridge. The proposal therefore complies with policy PP3.

Historic Environment (EP8)

The Regional Archaeologist has identified the potential for development to impact on the archaeological remains of the old harbour/port of Lossiemouth which is thought to have its origins in the medieval period. There is also the potential for fragments of wrecked vessels to survive within this area. In light of this, a condition is recommended requiring a Written Scheme of Investigation to be submitted and agreed with the Council to agree the scope of mitigation works necessary and to ensure recording and recovery of any archaeological resources found during construction. Subject to this condition being placed, the proposal complies with policy EP8.

Ecology

The seas around Lossiemouth form part of Moray Firth Special Area of Conservation (SAC) and Moray Firth Special Protection Area (SPA). The SAC is designated for its bottlenose dolphin population and subtidal sandbanks; the SPA is designated for a number of bird species. NatureScot have advised the proposal will not have an adverse impact (directly or indirectly) on their qualifying interests.

An Ecological Assessment provided with the application identifies a low risk to ecology as a result of the development of the bridge, however it recommends a number of mitigation measures (mainly requiring adoption of good working practices) to avoid an adverse impact on otters, birds, migratory fish and seals should they be present in the area during construction works. A condition will be placed requiring works to be carried out in accordance with the mitigation measures proposed.

Marine Licensing

Terrestrial Planning (i.e. that carried out by Moray Council as Planning Authority) covers all land in the Council area out to Mean Low Water Springs (MLWS). From Mean High Water Springs (MHWS) out to 12 nautical miles - the limit of Scotland's territorial waters, works may require a Marine Licence via Marine Scotland. The intervening area between MHWS and MLWS is called the inter-tidal zone, Planning Authorities and Marine Scotland both have jurisdiction.

Where the proposed bridge spans the River Lossie it covers the inter-tidal zone, as well as territorial waters beyond MLWS (in this case a very narrow width at the centre of the river). A Marine Licence is therefore likely required for the proposed bridge. As part of that consenting process, Marine Scotland (via the applicant) requested for a number of bodies interested in the marine environment to be consulted on this application for planning permission. Marine Scotland themselves had no comments to make.

Of those bodies that responded, The Northern Lighthouse Board raised no objections but requested that Moray Council issue marine safety information and a local Notice to Mariners prior to and during works to construct the bridge. They also request that the Council provide the UK Hydrographic Office with as-built drawings of the bridge once completed to ensure nautical charts can be updated. A condition and informative note will be applied covering this.

The Maritime and Coastguard Agency have provided comments in relation to impact of the bridge on marine users/vessels operating in the area, but note that the relatively

shallow waters mean vessels are unlikely to navigate the area although leisure craft are expected. They also note that this is ultimately a consideration for the Marine Licencing process.

Conclusion

There has been a well-publicised desire for access to the East Beach to be re-established from Lossiemouth since the closure of the existing bridge in 2019. The proposed bridge will allow easy access to be regained to a popular beach.

The supporting information provided with the application and proposed infrastructure upgrades mean it can be sited without detriment to the character and amenity of the surrounding area in which it would sit. It also demonstrates the benefit the proposed bridge will have for the local economy.

Whilst the proposed bridge is a departure from policies EP3 (Special Landscape Areas) and EP6 (Settlement Boundaries), this is acceptable on the basis there are overwhelming positives of the scheme from an economic and placemaking perspective. The unique circumstances of this application mean it is unlikely to set a precedence for development elsewhere that is contrary to policies EP3 and EP6. Accordingly approval is recommended.

REASON(S) FOR DECISION

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

The proposed bridge would be sited and designated appropriate for its location, and would not have a detrimental impact on the character and amenity of the surrounding area. Suitable upgrades are proposed in order to ensure local footpaths and road infrastructure can safely serve the proposed bridge. In this regard, the proposal is in accordance with the provisions of the Moray Local Development Plan 2020 (MLDP).

Half of the bridge would fall outwith the settlement boundary of Lossiemouth, as defined in the MLDP and also sits within the Lossiemouth to Portgordon Coast Special Landscape Area designation. Policy EP3 – Special Landscape Areas only permits development outwith defined settlements in certain circumstances, and the proposal is not covered under any of the permitted uses specified in the policy for rural areas (i.e. those outwith defined settlement boundaries). Policy EP6 – Settlement Boundaries does not permit any development immediately outwith the settlement. However, the supporting information provided with the application demonstrates the significant benefits the proposal will have for the local economy. The proposal will also improve public access to a valued amenity, with subsequent benefits for health and wellbeing. The proposal is considered to be an acceptable departure from these policies in unique circumstances and is unlikely to set a precedence for development elsewhere that would be contrary to these policies.

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APPENDIX

POLICY

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 sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. 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;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - 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.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area 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 where physically possible extend or enhance wildlife corridors and green/blue 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 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% 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 parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure 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 standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- 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) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved 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 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) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:

- 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 (including road and rail) 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 and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- 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.

- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

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 or such access is required to facilitate development that supports the provisions of the development plan.
- 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 (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

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 development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. 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.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(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. Maximum (50%) 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, rail 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 such as road stubs or hatchets, 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.

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, minimises adverse impacts 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.

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

b 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.

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 designations in rural groupings to anything other than 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.
- 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.

The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised. 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.

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

All new development proposals will be assessed and must achieve a very good quality score of no less than 75%. Quality will be assessed by planning officers at the planning application stage 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 behaviour.
- 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.

b 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.

EP6 SETTLEMENT BOUNDARIES

Settlement boundaries are drawn around each of the towns, villages and rural groupings 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 under the terms of Policy DP3.

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including 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;

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible 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.

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

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 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 96). 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 Supplementary Guidance provides further detail on the information required to support proposals.

EP17 COASTAL CHANGE

New development will not generally be supported in areas that are vulnerable to adverse effects of coastal erosion and/or wider coastal change as identified in Scotland's Dynamic Coast project (National Coastal Change Assessment).

In vulnerable areas, proposals for new developments will only be permitted if they demonstrate that they:

- are adaptive to anticipated coastal change, and
- avoid the need for coastal defence measures over their lifetime, and
- will not have a detrimental impact on coastal processes.

Beyond this, only in exceptional circumstances will proposals within areas vulnerable to coastal change be approved and only where it has been demonstrated that there are:

- no alternative solutions, and
- imperative reasons of over-riding public interest including those of a social or economic nature.

Lossiemouth ENV1 Public Parks and Gardens

Old Station Park and Promenade (LM/OS/020)

Lossiemouth ENV7 Civic Space

Market Cross Square (LM/OS/004);
James Square (LM/OS/007)