



# Natural Environment

## Introduction

The aims of the policies on the natural environment set out in this plan are as follows;

- To protect habitats, species and landscapes of international, national and local importance
- To protect existing greenspaces and plan for new, well connected quality greenspaces
- To integrate land and water policies to protect and enhance the quality of the water environment
- To protect trees covered by Tree Preservation Orders and safeguard trees during the development process.

## Context

Moray has a significant number of sites designated for their biodiversity and landscape importance. The Council recognises and values the role our natural environment plays in providing a range of opportunities for enjoyment, recreation and sustainable economic activity.

Moray's towns and villages benefit from a high quantity and good access to green spaces to provide recreational opportunities. The policies of the Plan aim to protect existing green spaces and provide a framework to ensure that new provision is well located and to a high standard.

The area of countryside around Moray's five main towns, the designated Areas of Great Landscape Value and Coastal Protection Zone require special consideration to safeguard their special qualities and role within Moray's landscape.

**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.

**Justification**

The aim of this policy is to protect designated sites of international and national nature conservation value. The diversity of habitats and species in Moray contributes towards the overall high quality environment. The sites are a valuable part of the country's nature conservation and need to be protected from inappropriate developments. If a development proposal is likely to have a significant environmental impact then an appropriate assessment or environmental impact assessment will be required to accompany any application for planning permission.

Natura 2000 sites include Special Areas of Conservation (SAC) and Special Protection Areas (SPA). Scottish Ministers must be notified prior to approval of planning consent affecting Natura sites where Scottish Natural Heritage has an outstanding objection and or where, despite a negative assessment, the Council considers there are imperative reasons of overriding public interest to approve the application, with no alternative solutions.

Ramsar sites are also Natura sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes.

**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.

**Justification**

This policy aims to protect sites and species of local nature conservation value from potentially damaging developments. If a development proposal is likely to have a significant environmental impact then an environmental impact assessment will be required to accompany any application for planning permission.

If there is evidence of the presence or potential presence of a legally protected species on site which may be affected by a proposed development, any likely impact must be fully considered prior to the determination of the application.

The settlement statements identify a number of sites where ecological evaluation studies will be required. Developers should incorporate existing habitats into their proposals and identify suitable opportunities for creating and restoring habitats and wildlife corridors. Local Nature Conservation Sites are shown on the Proposals Map.

Where appropriate, a phase 1 Habitat survey should be used to identify if wetlands are present - and if so, a more detailed National Vegetation Classification (NVC) survey should be undertaken to identify if the wetlands are groundwater dependent habitats.

**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.

**Justification**

Applicants will be required to submit supporting information where they consider they meet the tests set out in the policy, demonstrating both the need for the development and that a full range of possible alternative courses of action have been fully considered.

Nationally protected species are defined in the Wildlife and Countryside Act 1981.





**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.

**Justification**

The aim of this policy is to give protection to trees and woodlands which are considered to be of significant amenity value to the community as a whole and to trees within Conservation Areas. Trees and woodlands contribute to the character of the area, provide important natural habitat areas and have a recreational value. It is important that a sufficient buffer zone is left between mature trees and new development to avoid interference with the roots during construction.

Proposals for works to trees in Conservation areas and covered by a TPO should be made in writing and supported by a tree surgeon's report.

The criteria for determining the acceptability or otherwise of any proposed woodland removal is set out in the Scotland's Control of Woodland Removal Policy document.

Legislation is pending on High Hedges and the Council will prepare supplementary guidance on this once formally in place.

The Council has prepared supplementary guidance on Trees and Development which sets out detailed requirements in support of this policy.



**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.

**Justification**

The aim of this policy is to protect open spaces identified in the settlement statements and rural grouping statements as well as to provide standards for the quantity and quality of provision in new development. Open spaces provide opportunities for social contact and recreation and provide biodiversity and landscape benefits. Open spaces should be safe, secure, accessible, well maintained and linked together to create green and blue corridors.

Green corridors link woodlands and open spaces, while blue corridors link watercourses which can have high biodiversity value and offer additional recreational opportunities. Blue corridors is a collective term for a number of interconnecting features, which could include rivers, flood storage areas, floodplains, ponds, wetlands and drains.

Decisions on excess and new provision of sports areas will be made in consultation with Sport Scotland. Open air sports facilities will be considered to contribute towards the overall provision of open space in new developments.

Requirements for new playspaces, sports fields and play equipment will be considered on a case by case basis until the Open Space strategy is operational and should be incorporated within the sliding scale of requirements identified in the policy. The percentage requirements identified in the policy represent the percentage of the application site to be used for providing green space. The Council will, however, take into consideration site topography, existing and surrounding features and other matters when considering green space provision in new developments. *Continued on next page.*

## 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.

Greenspaces have been categorised as follows in the settlement statements:

- ENV1 Public Parks and Gardens
- ENV2 Private Gardens and Grounds
- ENV3 Amenity Greenspaces
- ENV4 Playspace for children and teenagers
- ENV5 Sports Areas
- ENV6 Green Corridors/ Natural/ Semi Natural
- ENV7 Civic Space
- ENV8 Foreshore Areas
- ENV9 Other functional Greenspaces
- ENV10 Regeneration Proposals
- ENV11 Cemeteries and proposed extensions

Green spaces in rural grouping statements have been identified as Amenity Land.

The Council will prepare an Open Space Strategy which will provide further guidance on these requirements and identify green space networks and corridors.



**Policy E6****National Parks and National Scenic Areas (NSA)**

Development that affects National Parks or National Scenic Areas will only be permitted where:

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

**Justification:**

The aim of this policy is to safeguard areas of nationally important landscapes from inappropriate development. The Cairngorm Mountain National Scenic Area and Cairngorms National Park lie outwith the scope of this Local Development Plan and are covered by the policies of the Cairngorms National Park Authority (CNPA). However, development proposals outwith the Park boundary may have an impact upon these designations.

Where appropriate, consultation with the CNPA will be carried out.

**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

**Justification:**

The aim of this policy is to protect areas of strategically important landscapes from inappropriate development. The policy also aims to promote the highest standards of design (ref the Housing in the Countryside guidance) to retain the traditional character of these areas. There are 8 AGLV's in Moray shown on the Proposals Map (Environment).

Moray enjoys a high quality landscape and proposals which are likely to result in a significant adverse impact on the landscape will not be supported. The creation of new hill tracks can have a significant impact primarily from the visual appearance of the new track, but also from the drainage and erosion effects on the local area.



**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.

**Justification:**

The objective of the policy is to protect and enhance the Moray coast for its landscape, nature conservation, recreation and tourism benefits. The undeveloped coastline is protected through identification of a Coastal Protection Zone (see Proposals Map) within which only certain types of development will be acceptable.

**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".)

**Justification**

Settlement boundaries are defined on the Proposals Maps for the purpose of guiding development to the towns and villages, preventing ribbon development and maintaining a clear distinction between the built up area and the countryside.

The five main towns also have a Countryside Around Town (CAT) designation which further restricts development in the vicinity of the settlement boundary.

**Policy E10****Countryside Around Towns**

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

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

**Justification:**

The five main towns of Elgin, Forres, Buckie, Keith and Lossiemouth are subject to the highest development pressures and CAT's have been designated to prevent development sprawl into the countryside. Only certain types of development are appropriate within CAT's to protect their special character. New housing development (other than under criteria a) is specifically excluded from the types of acceptable development, to maintain and preserve the distinction with the built up area .

