

Appendices

Site adjacent to The Mill House, Sherriffmills, Elgin – Mr S Masson

September 2010

Grounds for Review of Refusal of Planning Permission

Planning Application Ref No 10/00745/APP



Prepared by
grant and geoghegan
enquiries@ggmail.co.uk
01343-556644

Appendix 1

Copy of planning application, amended site/location plan and refusal documents



the **moray** council

Planning Department

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000008820-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

Type of Application

What is this application for? Please select one of the following:

We strongly recommend that you refer to the help text before you complete this section *

- ☒ Application for Planning Permission (including changes of use but excluding mineral working)
- ☐ Application for Planning Permission in Principle
- ☐ Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions
- ☐ Application for Mineral Working

Note. If you select 'Application for Mineral Working' before you complete this form, please check with the planning authority if they have an alternative form to be submitted or if they require additional information over and above the questions asked in this form.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erect House

Is this a temporary permission? *

☐ Yes ☒ No

Please state how long permission is required for and why: * (Max 500 characters)

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

☐ Yes ☒ No

Have the works already been started or completed? *

☒ No ☐ Yes - Started ☐ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

Applicant or Agent Details

Are you an applicant, or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Agent Company Name: grant and geoghegan

You must enter a Building Name or Number, or both:*

Agent's Ref. Number:

Building Name:

Agent First Name: *

Joe

Building Number:

46

Agent Last Name: *

Geoghegan

Address 1 (Street): *

Glenlossie Road

Telephone Number: *

01343556644

Address 2:

Thomshill

Extension Number:

Town/City: *

Elgin

Mobile Number:

Country: *

UK

Fax Number:

Postcode: *

IV30 8GY

Email Address: * joe@gmail.co.uk

Applicant Details

Applicant's Title: *

Mr

You must enter a Building Name or Number, or both:*

Other Title:

Building Name:

Applicant's First Name: *

S

Building Number:

Applicant's Last Name: *

Masson

Address 1 (Street):

Company Name:

Address 2:

Telephone Number:

Town/City:

Extension Number:

Country:

Mobile Number:

Postcode:

Fax Number:

Email Address:

Site Address Details

Full postal address of the site (including postcode where available):

Address 1:

Address 5:

Address 2:

Town/City/Settlement:

Address 3:

Post Code:

Address 4:

Please identify/describe the location of the site or sites.

Northing

862943

Easting

320102

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Pre-Application Discussion Details

In what format was the feedback given? *

☐ Meeting ☐ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (Max 500 characters)

Title:

Please Select One

Other title:

First Name:

Last Name:

Correspondence Reference
Number:

Date (dd/mm/yyyy):

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

2106.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: (Max 500 characters)

Vacant rough ground

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? *

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? *

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? *

3

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

☒ Yes ☐ No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

- ☒ Yes – connecting to public drainage network
- ☐ No – proposing to make private drainage arrangements
- ☐ Not Applicable – only arrangements for water supply required

What private arrangements are you proposing? *

- ☐ New/Altered septic tank.
- ☐ Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
- ☐ Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

- ☐ Discharge to land via soakaway.
- ☐ Discharge to watercourse(s) (including partial soakaway).
- ☐ Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: * (Max 500 characters)

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) *

☒ Yes ☐ No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

☒ Yes

☐ No, using a private water supply

☐ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

☐ Yes ☒ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

☐ Yes ☒ No ☐ Don't Know

Briefly describe how the risk of flooding might be increased elsewhere. In addition you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact SEPA or your Planning Authority for advice on what information may be required: * (Max 500 characters)

Trees

Are there any trees on or adjacent to the application site? *

☒ Yes ☐ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

☒ Yes ☐ No

If Yes or No, please provide further details:(Max 500 characters)

To Local Authority requirements.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

☒ Yes ☐ No

How many units do you propose in total? *

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

☐ Yes ☒ No

All Types of Non Housing Development - Proposed New Floorspace Details

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Gross (proposed) floorspace (In square metres, sq.m) or number of new (additional) rooms (if class 7 or 8): *

If Class 1, please give details of internal floorspace:

Net trading space:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2008) *

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Are you or is the applicant, or the applicant's spouse/partner, a member of staff within the planning service or an elected member of the planning authority?

Or are you/the applicant/the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? *

☐ Yes ☒ No

Please provide further details: * (Max 500 characters)

Certificates and Notices

Certificate and Notice under regulation 15 8 – Town and Country planning (General Development Management Procedure) (Scotland) Order 1992 (GDPO 1992) Regulations 2008

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A ,Form 1 or Certificate Form B or Certificate C, but if this is a Minerals application, you will need Certificate Form D.

Are you/the applicant the sole owner of ALL the land ? *

☒ Yes ☐ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed: Joe Geoghegan

On behalf of: Mr S Masson

Date: 11/05/2010

☒ Please tick here to certify this Certificate

Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments, have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

c) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

d) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2008) have you provided a Design Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

e) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☒ Not applicable to this application

f) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☒ Site Layout Plan or Block plan.

☒ Elevations.

☒ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. *

☐ Yes ☒ N/A

A Flood Risk Assessment. *

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

☐ Yes ☒ N/A

Drainage/SUDS layout. *

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan. *

☐ Yes ☒ N/A

Contaminated Land Assessment. *

☐ Yes ☒ N/A

Habitat Survey. *

☐ Yes ☒ N/A

A Processing Agreement *

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

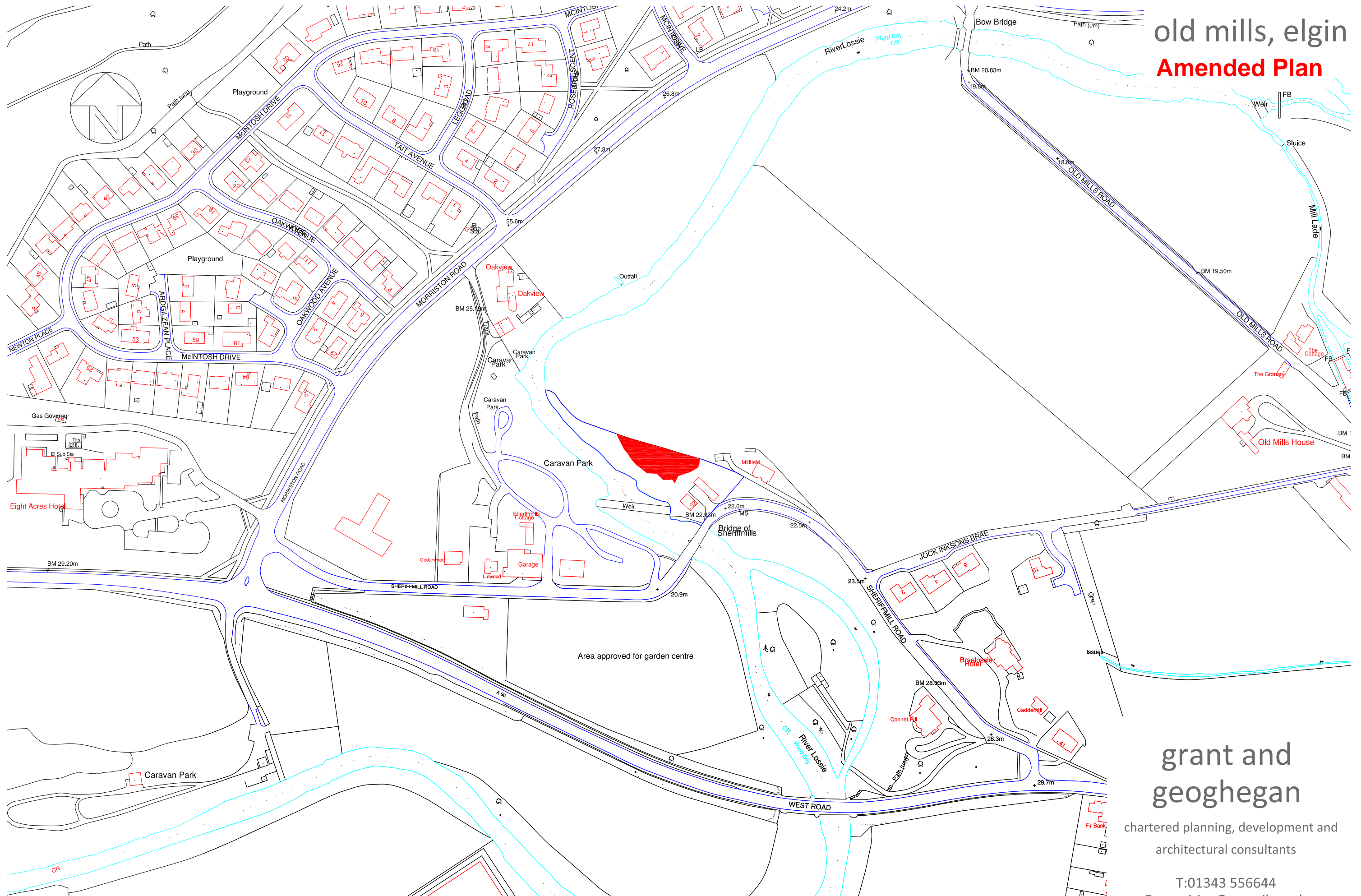
Declaration Name: Joe Geoghegan

Declaration Date: 11/05/2010

Payment Details

Cheque: messrs p and s masson and son, 000252

Created: 11/05/2010 19:15



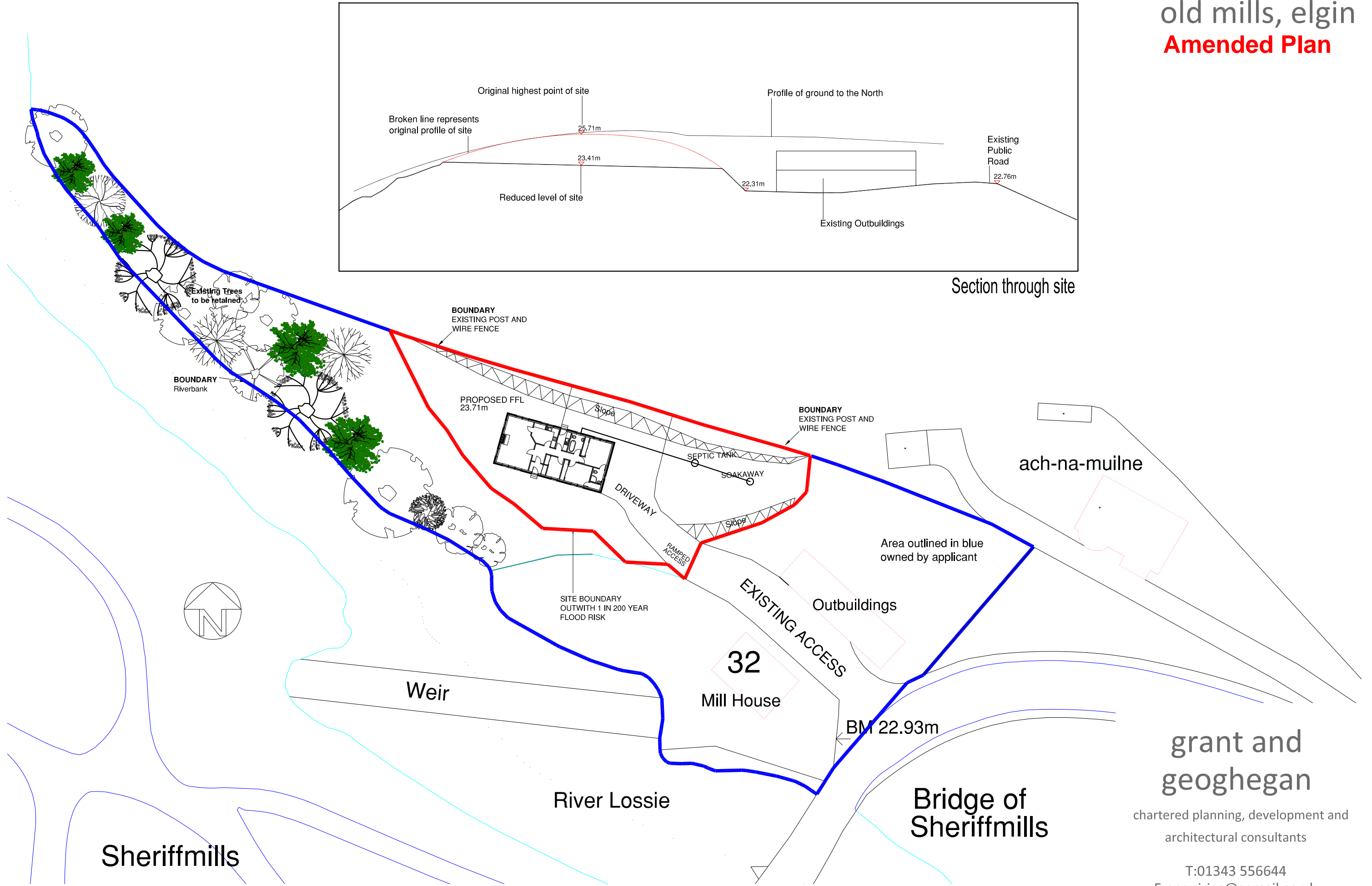
old mills, elgin
Amended Plan

grant and
geoghegan

chartered planning, development and
architectural consultants

T:01343 556644
E:enquiries@ggmail.co.uk

old mills, elgin
Amended Plan



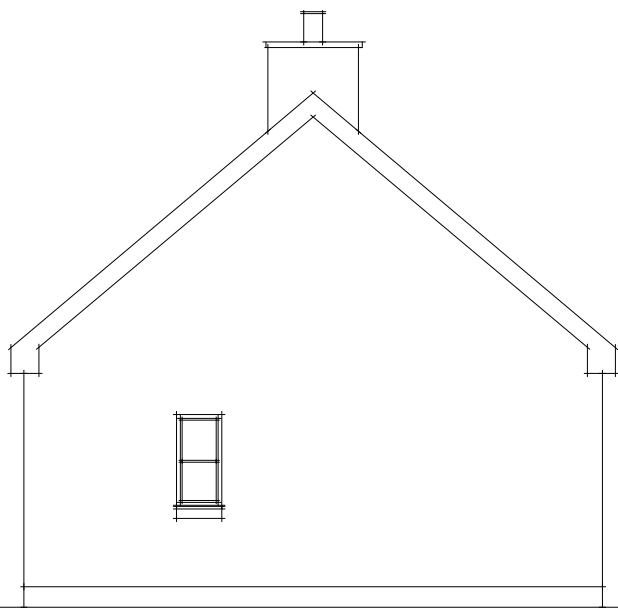
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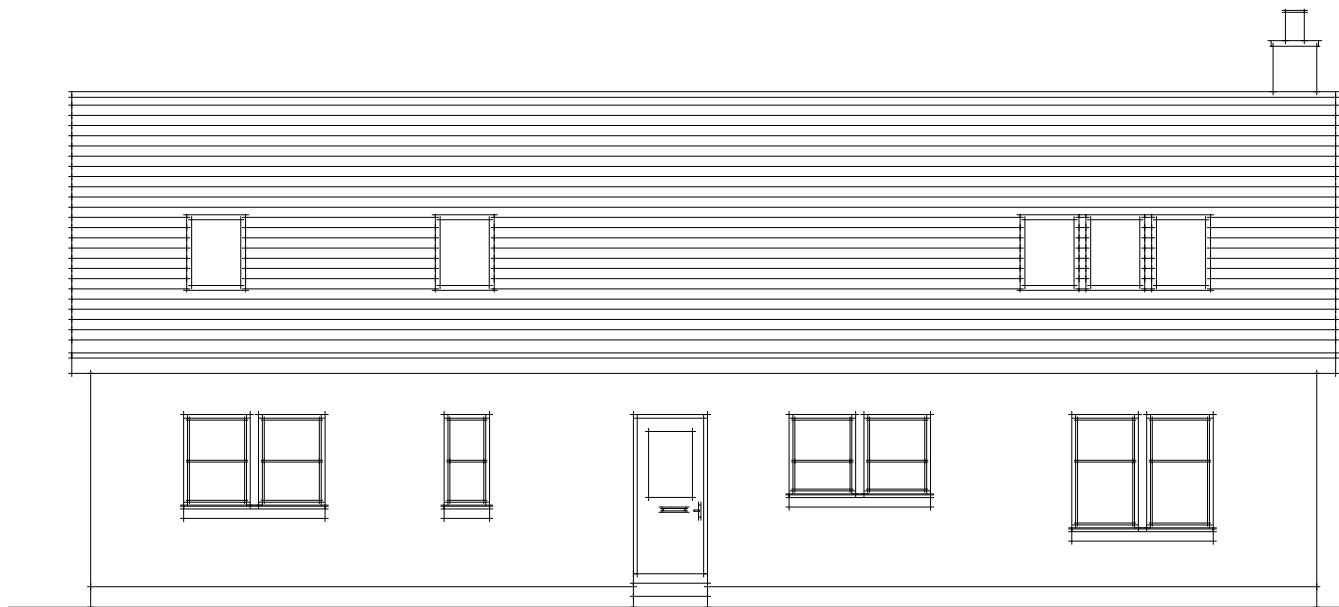


Front Elevation

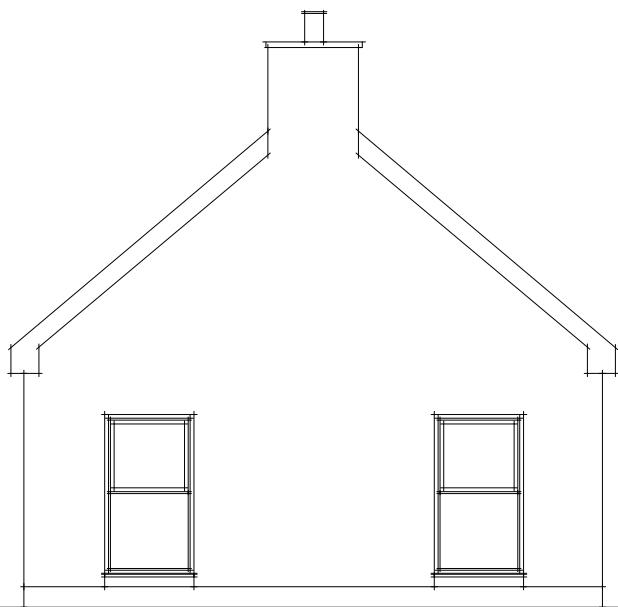


Side Elevation

External Finishes
Roof Covering
Natural Slate
Walls
Wetdash Harl
External Timber
All timber to be stained with Dulux "Mahogany" Woodshield



Rear Elevation

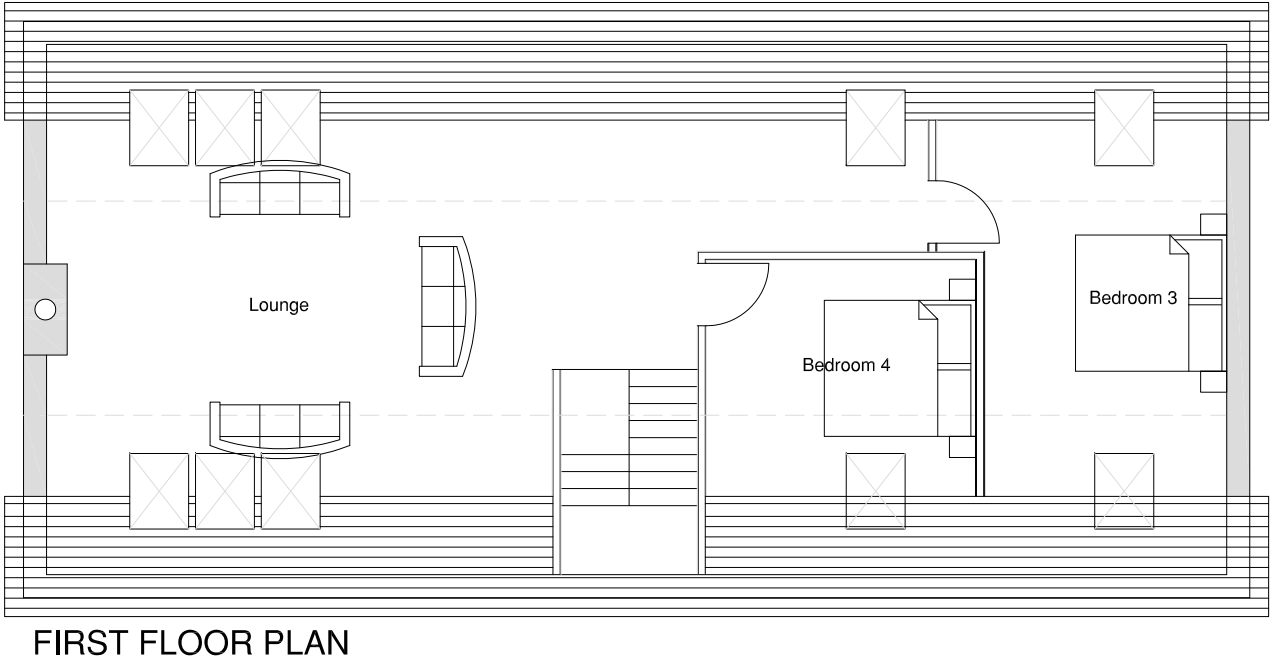
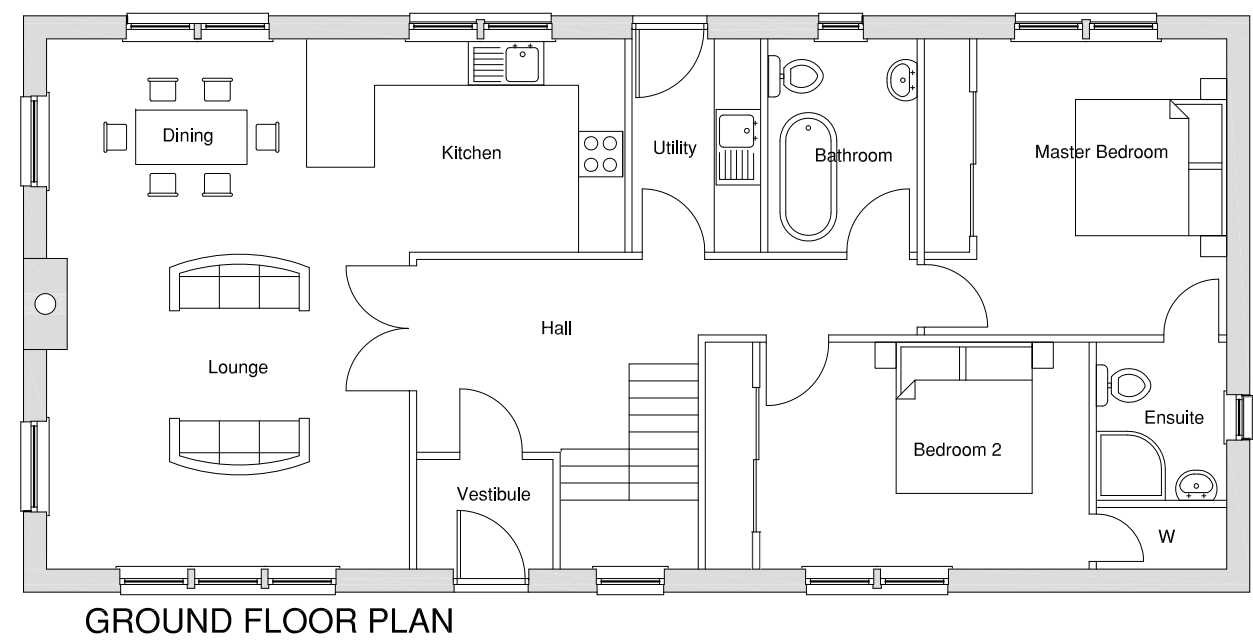


Side Elevation

grant and
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**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT
1997, as amended**

REFUSAL OF PLANNING PERMISSION

**[Elgin City South]
Application for Planning Permission**

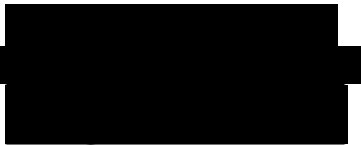
TO Mr S Masson
c/o Grant And Geoghegan
46 Glenlossie Road
Thomshill
Elgin
Moray
IV30 8GY

With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Erect dwellinghouse on Site Adjacent To The Mill House Sheriffmills
Elgin Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **24th August 2010**



HEAD OF DEVELOPMENT SERVICES

Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

1. The proposal is contrary to policy E4 (Green Spaces) and Elgin settlement policy ENV6 as contained in the Development Plan in that;
 - a) it is not for a public use which outweighs the value of the green space;
 - b) it would impact on the amenity value of the site; and
 - c) it would establish an undesirable precedent for further such development, leading to erosion of the character and amenity for which the area is designated.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
010/061/02		Elevations
010/061/01		Floor plans
010/061/03		Site Plan
010/061/04		Location Plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

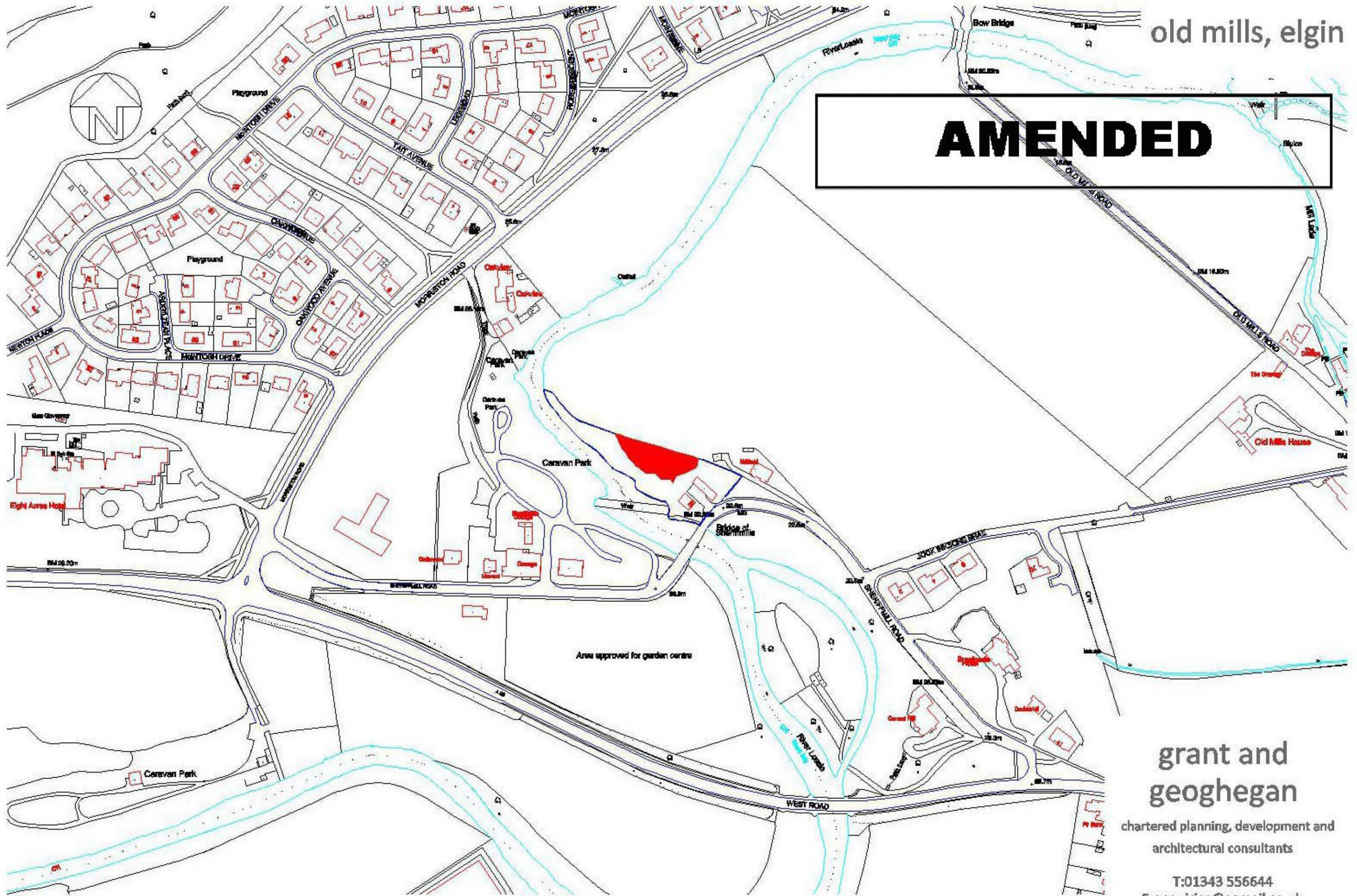
N/A

NOTICE OF APPEAL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



old mills, elgin

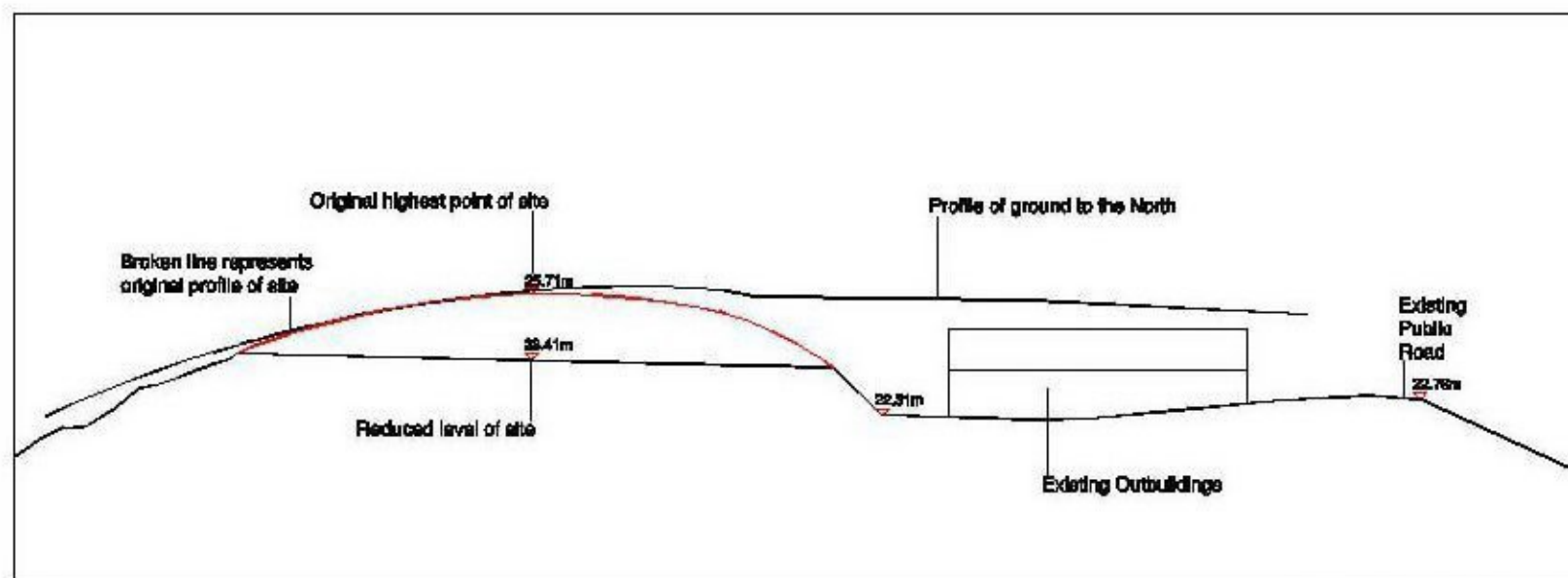
AMENDED

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geoghegan

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E:enquiries@ggmail.co.uk

old mills, elgin



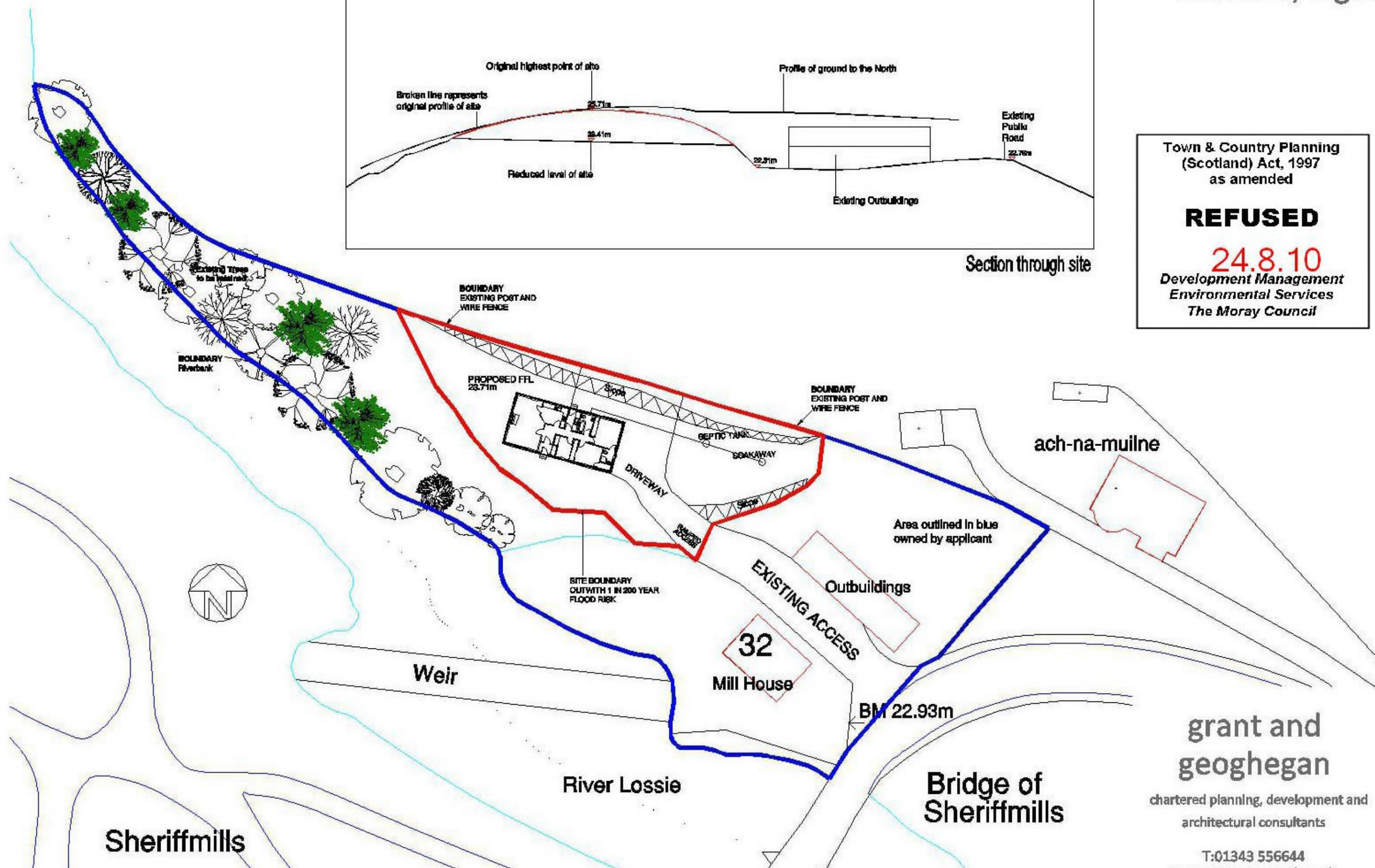
Section through site

Town & Country Planning
(Scotland) Act, 1997
as amended

REFUSED

24.8.10

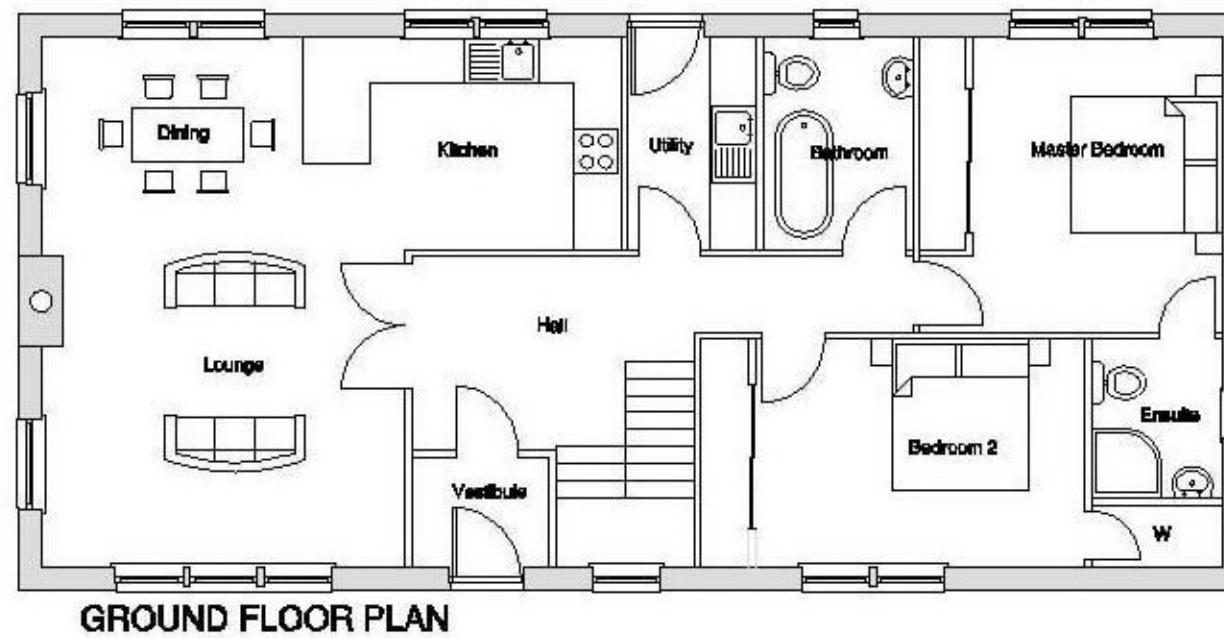
Development Management
Environmental Services
The Moray Council



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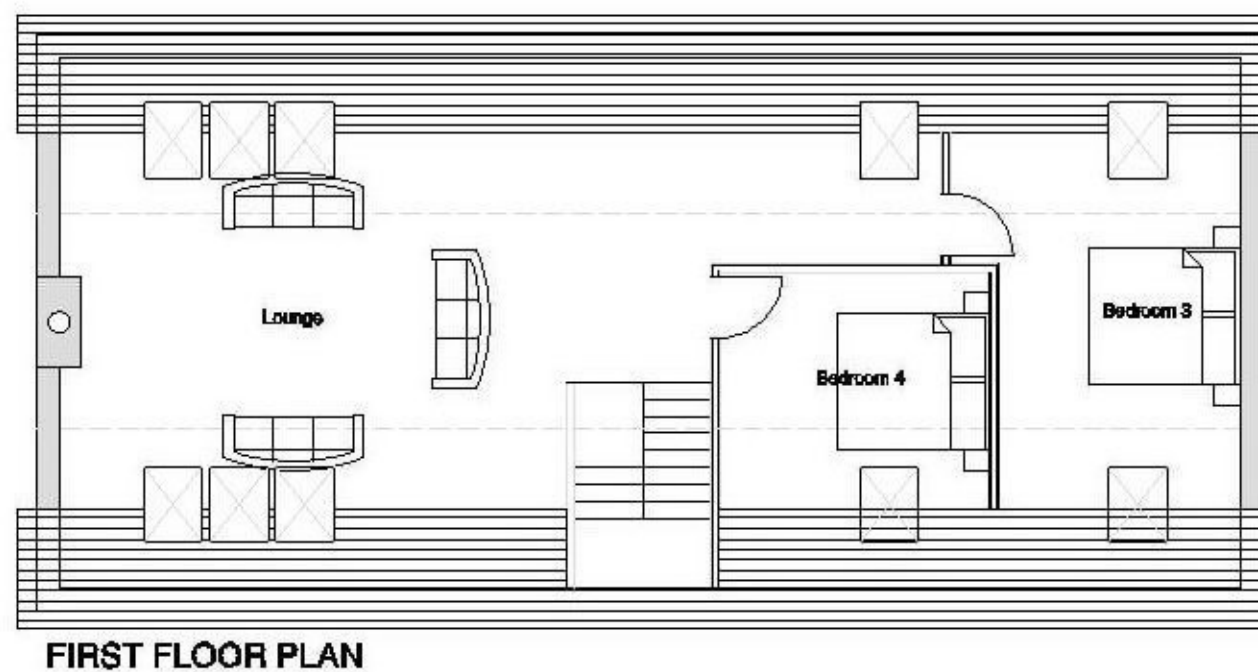


Town & Country Planning
(Scotland) Act, 1997
as amended

REFUSED

24.8.10

Development Management
Environmental Services
The Moray Council



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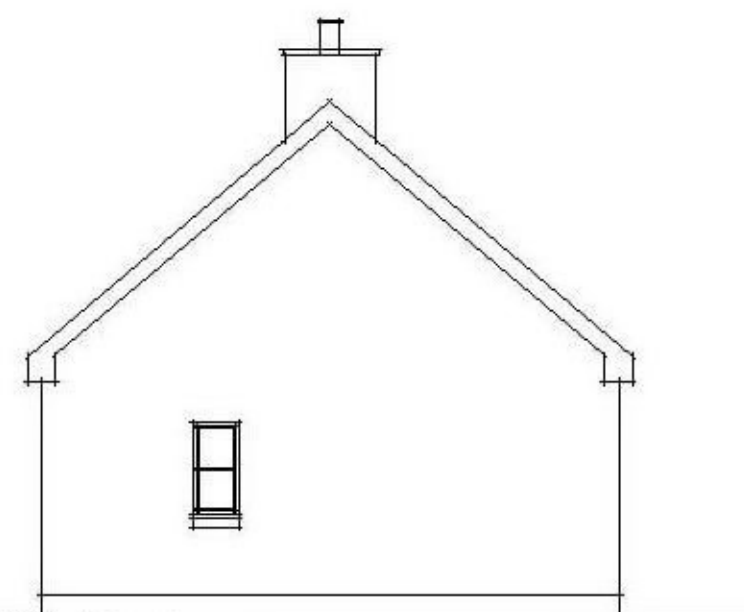
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old mills, elgin



Front Elevation



Side Elevation

External Finishes

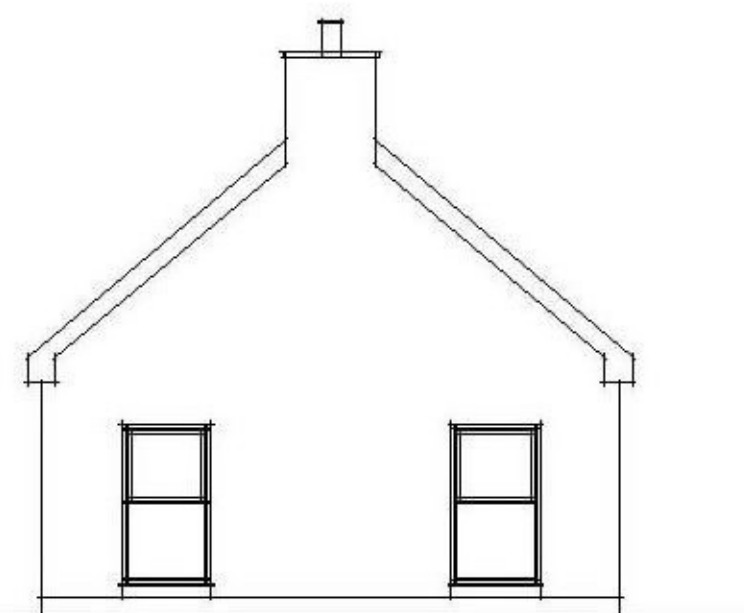
Roof Covering
Natural Slate

Walls
Weathered Hard

External Timber
All timber to be stained with Dulux "Mahogany" Woodstain



Rear Elevation



Side Elevation

Town & Country Planning
(Scotland) Act, 1997
as amended

REFUSED

24.8.10

Development Management
Environmental Services
The Moray Council

grant and
geoghegan

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architectural consultants

T:01343 556644
E:enquiries@ggmail.co.uk

Appendix 2

Case officers Report of Handling for planning application

REPORT OF HANDLING

Ref No:	10/00745/APP	Officer:	Jim Martin
Proposal Description/ Address	Erect dwellinghouse on Site Adjacent To The Mill House Sheriffmills Elgin Moray		
Date:	11.08.2010	Typist Initials:	PAC

RECOMMENDATION

Approve, without or with condition(s) listed below	
Refuse, subject to reason(s) listed below	Y
Legal Agreement required e.g. S,75	
Notification to Scottish Ministers/Historic Scotland	
Hearing requirements	Departure
	Pre-determination

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Health Manager	24/05/10	No objections.
Contaminated Land	23/06/10	No objections, subject to informative.
Transportation Manager	31/05/10	No objections, subject to condition of consent.
Scottish Water	27/05/10	No objections.
SEPA		Initially objected, but objections subsequently withdrawn.
Environmental Protection Manager		No response received
Moray Flood Alleviation		

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
Policy 2(a)	Y	
H3: New Housing in Built Up Areas	Y	
T2: Provision of Road Access		
T5: Parking Standards		
E4: Green Spaces	Y	
EP5: SUDS		
EP7: Control of Dev in Flood Risk Areas		
EP9: Contaminated Land		
IMP1: Development Requirements		

IMP3: Developer Contributions		
Elgin - ENV6 Green Corridors	Y	

REPRESENTATIONS

Representations Received NO

Total number of representations received

Names/Addresses of parties submitting representations

Name Address

Summary and Assessment of main issues raised by representations

Issue:

Comments (PO):

None.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Detailed application for the erection of a dwellinghouse on land at Sheriffmills, Elgin. The site concerned lies to the north-west of Mill House, with the River Lossie forming its' south-western boundary. The boundary to the north-east is a post and wire fence with agricultural grazing land beyond. To the south-east the site is bounded by the existing mill house and attendant outbuildings. The site at present contains a good number of mature deciduous trees which are mostly concentrated to the north-western portion where the site narrows, and along the banks of the river. Ground level rises uphill to the north-east away from the river before dropping again (outwith the site) in a gradual slope back down towards the Lossie to the north.

The proposals for the site involve reducing the level at the highest point by around 2.3 metres, with the result that the proposed house will be lower than if built on the ground at present; thereby making it less prominent. The trees to the northern end of the site and along the banks of the Lossie are to be retained, and the post and wire boundary fence to the field to the north-east is also to be retained. Access to the site is proposed via the existing vehicular access to Mill House from Sheriffmill Road. The house type proposed is a fairly contemporary single storey design with first floor accommodation and a roof ridge height of just over 7 metres. Velux type windows serve the upper floor. Ground floor windows exhibit vertical emphasis, and an integral roof-ridge chimney is indicated serving a hearth in the lounge. Finishes proposed are natural slate for the roof and wet dash harl for the walls, although no colour is specified for the latter.

There have been two previous applications for dwellinghouses on this site. The first (outline) application in 2004 was refused on the grounds that it was contrary to the environmental designation of the area and would be detrimental to the setting and rural character. The second (detailed) application in 2007 was withdrawn.

Consultation responses received on this application have been positive. No objections are noted from Environmental Health or Scottish Water, while from the Contaminated Land section only one informative is recommended and the Transportation Manager recommends only one condition of consent. Both SEPA and Moray Flood Alleviation initially objected to the application, but following the submission of amended plans indicating any development outwith the 1:200 year flood risk area, those objections have been withdrawn. SEPA does, however, recommend a condition of consent to ensure that no development takes place below the 20.6 metre Ordnance Datum. There have been no

representations either for or against the proposal.

Notwithstanding the positive responses received to the consultations, the conclusion of this Service must be that the development proposed is not in accordance with the policies of the Development Plan for new development in the Lossie Corridor. The specific environmental policies for Elgin are designated which are "...open spaces which contribute to the environment and amenity of Elgin...". The over-riding E4 policy presumes against development in such designated areas unless the proposal is for a public use which clearly outweighs the value of the green space and it is sited and designed to minimise adverse impact on the recreational, amenity and biodiversity value of the site. It is clear that the proposal is not for public use, and that notwithstanding the merits of trees screening the site and the design/material finishes proposed, approval of this application and its subsequent development would impact on the character and amenity of the site. Furthermore, this would establish an undesirable precedent for further development in the Lossie Corridor which would further erode the character and amenity value for which it is designated. For these reasons the recommendation must be for refusal of the application.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None.

HISTORY

Reference No.	Description			
07/00262/FUL	Erect dwellinghouse at The Millhouse Sheriffmill Road Elgin Moray IV30 6UH			
	Decision	Withdrawn	Date Of Decision	11/05/07
04/00514/OUT	Outline for clearance and levelling of existing embankment (retrospective) plus erection of new dwelling with septic tank at The Millhouse Sheriffmill Road Elgin Moray IV30 6UH			
	Decision	Refuse	Date Of Decision	23/09/05

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	29/07/10	
Northern Scot	No Premises	17/06/10	

DEVELOPER CONTRIBUTIONS (PGU)

Status	
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DOCUMENTS, ASSESSMENTS etc. *

* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc

Supporting information submitted with application?	YES	NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT

Application subject to S.75 Agreement	YES	NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)

Section 30	Relating to EIA	YES	NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission	YES	NO
Section 32	Requiring planning authority to consider the imposition of planning conditions	YES	NO
Summary of Direction(s)			

Appendix 3

Circular 4/2009 - Development Management Procedures - Extracts



ANNEX A

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan,
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - a proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance
 - Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - a National Park Plan
 - the National Waste Management Plan
 - community plans
 - the environmental impact of the proposal
 - the design of the proposed development and its relationship to its surroundings
 - access, provision of infrastructure and planning history of the site
 - views of statutory and other consultees
 - legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

Appendix 4

Moray Structure Plan 2007 - Extracts

The housing land shortfall is the residue from the subtraction of the effective land supply from the projected household change (incorporating an element for flexibility). The shortfall for 2005-2017 is 2746.

The proposed housing land allowances are set out in the table below. They meet the identified shortfall of 2746, rounded to 2750 units. They intend to meet a variety of demands across the whole of the district taking into account existing supply, likely future demand and need, and broad environmental considerations.

Schedule 2: Housing Land Allowances

Settlement	5 Year Effective Supply (2005)	Longer Term Effective Supply (2005)	Constrained Supply (2005)	Annual Development (5-Year Average 2000-2004)	Proposed Additional Housing Allowance
Elgin	593	120	-	91	950
Forres	123	80	11	61	550
Buckie	95	54	95	27	350
Lossiemouth	69	2	5	41	250
Keith	121	23	9	8	170
Remainder of Moray	413	126	323	N/A	480
Total	1,414	405	443		2,750

Table 3 below shows the split of housing land by Local Plan area. The only Moray settlement within the Cairngorms Local Plan area is Tomintoul which is identified within the settlement hierarchy as a village with limited/small scale development potential. There are also a small number of rural communities which can accommodate limited growth.

Table 4: Additional Housing Land Supply by Local Plan area (to 2017)

Local Plan Area	Proposed additional housing allowance
Moray Local Plan	2,730
Cairngorms Local Plan	20

It is proposed to identify reserved longer term sites in Elgin, Forres, Buckie, and Keith subject to servicing being available for their development. This will give a clear indication as to the strategic direction of future housing development in Moray's main centres. Furthermore, the sites also act as a release valve if the rate of housing development is greater than anticipated.

The Plan supports the development of infill and brownfield sites which meet sustainability objectives. However there is a need to carefully consider both environmental and infrastructure consequences. There should be a clear intention to enhance the form and quality of the urban environment, with particular care required to avoid over-development or 'cramming'. In order to encourage new housing development in built-up areas, 'brownfield' development will not be constrained by Structure Plan allowances.

Appendix 5

Moray Local Plan 2008 - Extracts

POLICY H2: INDICATIVE LONG TERM HOUSING ALLOCATIONS

Indicative long term housing allocations are identified in the settlement plans for Elgin, Forbes, Buckie, Keith, Fochabers, Cullen, Rothes, Aberlour, Lhanbryde and Urquhart. They are embargoed from development during the period of the Local Plan, unless the Planning Authority is convinced that their early release is justified. The Council will evaluate the need for the early release of long term housing land, through the annual Housing Land Audit and Monitoring Report. The triggers for the early release will include a shortage of effective housing land, significant changes in development rates, infrastructure provision and structural landscaping provision.

JUSTIFICATION:

LONG term sites have been identified to provide a strategic view of the future direction of some settlements and to ensure that an effective housing land supply is provided to meet the requirements of the Structure Plan and SPP3. These sites are embargoed from development within the period of the Plan (2008-2012) unless the triggers for their release are met on a case by case basis. The 'triggers' for release of land under this policy has been agreed with Homes for Scotland and other stakeholders as part of the Housing Land Audit process. The identification of indicative long term housing allocations in the area's main towns allows the consideration of advanced works, such as infrastructure and structural landscaping. It also provides a reserve that could be brought forward if justified in terms of the supply and demand for housing within the area thereby reducing the potential for unplanned ad hoc development.

CONFORMS TO:

The policy conforms to SPP3 and PAN38 on the provision of an appropriate housing land supply.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP4 Action Plan.

Housing Land Audit

POLICY H3: NEW HOUSING IN BUILT-UP AREAS

New housing within settlement boundaries will be acceptable if:

- a. it does not adversely impact on the surrounding environment, and
- b. adequate servicing and infrastructure is available, or can be made available.

JUSTIFICATION:

The development of brownfield housing meets many of the requirements of sustainability. It assists in reducing the need to release greenfield land, it helps to regenerate run down urban areas and encourages a more sustainable pattern of transportation. Infrastructure requirements such as schools, water, sewerage and roads are often already in place, although appropriate contamination assessments may need to be carried out. Susceptibility to flooding must be confirmed.

CONFORMS TO:

The policy conforms to SPP3 on the development of urban areas. PAN33 on the development of Contaminated Land.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements,

Policy IMP2: Development Impact Assessments,

Policy IMP3: Developer Contributions,

Policy EP6: Control of Development in Flood Risk Areas.

POLICY IMP1: DEVELOPMENT REQUIREMENTS

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,
- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

JUSTIFICATION

The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan. In the first instance development needs to be suitable to the surrounding built and natural environment. Development should be adequately serviced in terms of transport, water, drainage, power, facilities. Particular emphasis is placed on providing pedestrian, cycle and public transport access to the development, and the use of sustainable urban drainage systems and the incorporation of renewable energy equipment and systems, and sustainable design and construction into the development in order to promote sustainability within Moray. Flooding is an important consideration particularly within the Laich of Moray and needs to be adequately addressed. Similarly, pollution issues in relation to air, noise, ground water and ground contamination must be adequately addressed to provide proper development standards.

CONFORMS TO:

The policy conforms to SPP1 on the Planning System and to national planning guidance and advice generally

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Other policy requirements generally.

Established Business Areas (Policy ED5 applies)

I7 Railway Sidings/Ashgrove Road

An area of mixed industrial/commercial use, there are sites within this designation at Ashgrove Road suited to redevelopment for business purposes, which may become more extensive if areas of railway sidings are declared redundant. The Council will promote the location of businesses which take advantage of rail freight opportunities. This site contains LPG tanks which currently acts as a constraint on certain types of development. As such, the Health and Safety Executive should be consulted on any proposed development. A detailed Flood Risk Assessment will be required for any planning application that is submitted for the site.

I8 Edgar Road

These 3 areas consist primarily of established uses within Class 4, (Business) and Class 6, (Storage and Distribution). A detailed Flood Risk Assessment will be required for any planning application that is submitted for the site.

I9 Johnstons Woollen Mill

Area reserved specifically for the operation of the existing mill. Its ancillary retail operation within the site, will be subject to that retail policy. A detailed Flood Risk Assessment will be required for any planning application that is submitted for the site.

I10 Glen Moray Distillery, Bruceland Road

Area reserved for distillery related uses. Expansion of the distillery should be in the first instance to the west on vacant land within the designated site, and not onto fields to the north forming part of ENV6. A detailed Flood Risk Assessment will be required for any planning application that is submitted for the site.

I11 Linkwood Distillery

Area reserved for distillery related uses.

I12 Ashgrove Road

Redevelopment proposals may require to address improvements to Ashgrove Road, including the connection to Linkwood Road. A detailed Flood Risk Assessment will be required for any planning application that is submitted for the site.

I13 Grampian Road

Redevelopment proposals will be influenced by the details of the Elgin Flood Alleviation Scheme. A detailed Flood Risk Assessment will be required for any planning application that is submitted for the site.

I14 Sandy Road (The Wards)

Redevelopment proposals must allow for possible road widening and creation of a footpath.

Environment

The following sites are identified as open spaces which contribute to the environment and amenity of Elgin. The over-riding policy E4 applies to each of these sites.

ENV1 Public Parks and Gardens

Reiket Park, Cooper Park

ENV2 Private Gardens or Grounds

College grounds, The Oaks, Morriston Road.

ENV3 Amenity Greenspaces

East road verges- A96, Glenmoray Drive, Lesmurdie house, New Elgin Rd.

ENV4 Playspace for Children and Teenagers

Playing fields, Childrens play area next to R7 - Kennedy Place, Fairy Park, Nelson Square (Bishopmill)

ENV5 Sports Areas

Greenwards school, Eastend school, Tyock/Pinefield playing field, New Elgin Rd, Borough Briggs.

ENV6 Green Corridors/Natural/Semi Natural Greenspaces

The Wards, Lesmurdie, Bishopmill, Hamilton Drive, Waulkmill Grove, Morriston Playing Fields, Edgar Rd.

ENV7 Civic spaces

Ladyhill Monument

ENV9 Other functional greenspaces

Linkwood Cemetery, Cathedral, Biblical garden, proposed cemetery Lossiemouth road.

ENV10 Regeneration Proposals

Proposed TPO at Pluscarden Road.

All SSSI and SIN designations remain.

TPO Tree Preservation Order

Lesmurdie, Waulkmill, Duffus, Maggot Wood and Dunkinty.

CAT The Countryside Around Towns area protects the area around the town from development

Cemetery Search Area (CM)

A search area at Findrassie Wood will allow further consideration to be given to the provision of site servicing, including access, in association with planning this site with the adjoining development. In the event of an alternative site being chosen, this site will revert to CAT. Development proposals should safeguard the integrity of Loch Spynie SPA.

Community Facilities**CF1 Dr Grays**

This area has been reserved as a community facility for any future development of the hospital.

CF2 Edgar Road

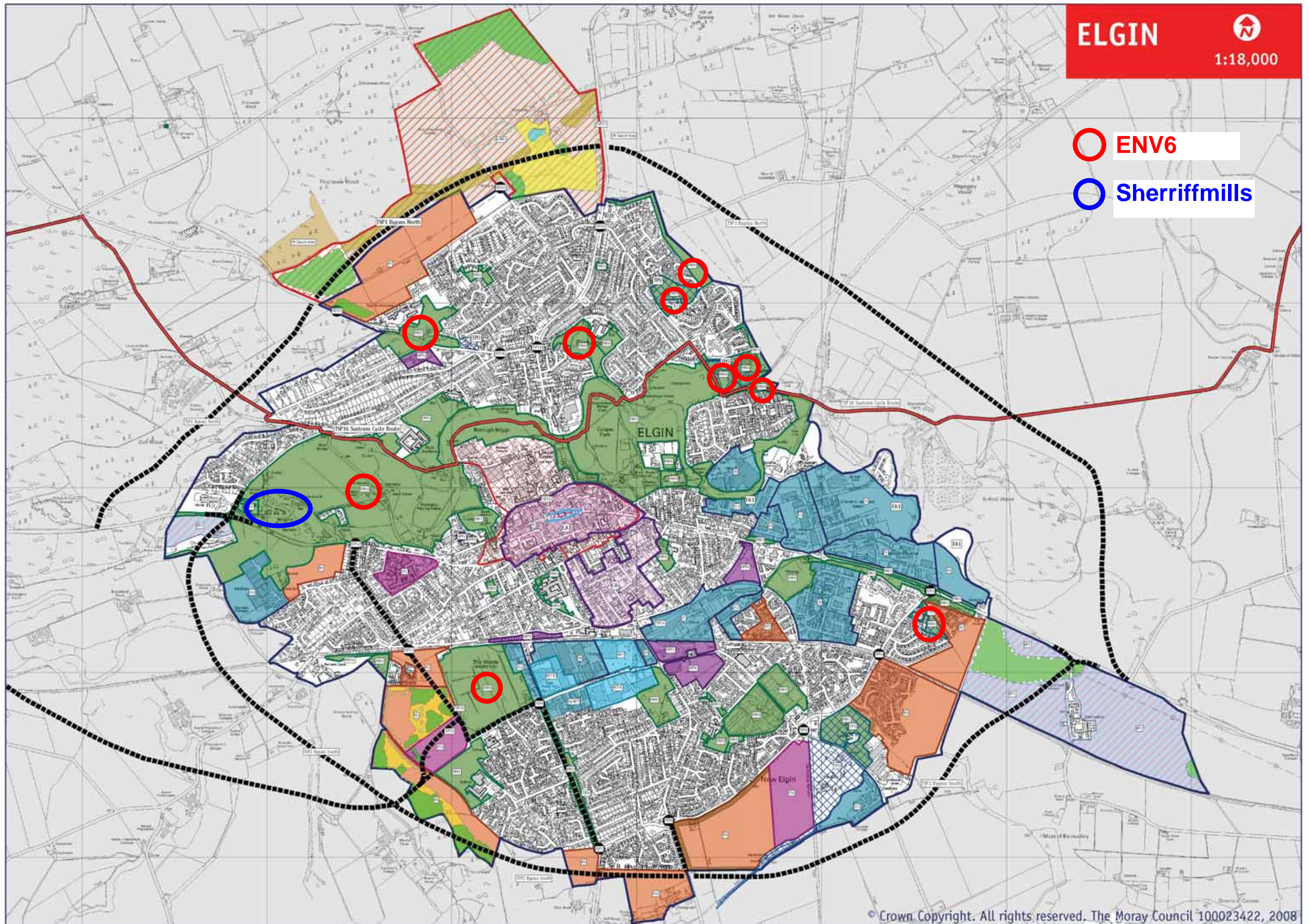
This site is to be considered in conjunction with site ENV5 for the redevelopment and configuration of Elgin High School and associated playing field/community sports fields. The design and layout for this facility must acknowledge and make provision for the potential requirements for a link road between Edgar Road and notional line of the bypass.

CF4 Thornhill field

In line with the Elgin South Masterplan, this site is now under development for a mix of community facilities and sports and recreational grounds. A detailed Flood Risk Assessment will be required for any planning application that is submitted for this site.

○ ENV6

○ Sherriffmills



POLICY E4: GREEN SPACES

Development which would cause the loss of, or impact on, areas identified under the ENV designation in settlements and the 'Amenity Land' designation in rural communities will be refused unless:

- a. the proposal is for a public use that clearly outweighs the value of the green space; and
- b. the development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site.

Development proposals on sites with an identified sporting or recreational function will also be considered against Policy CF2: Recreational Land and Open Space.

JUSTIFICATION:

The aim of the policy is to protect 'green spaces' identified in the settlement statements and rural community statements. Green spaces in the built environment provide opportunities for social contact and recreation and provide biodiversity and landscape benefits. It is therefore important that they are safe, secure, accessible and well maintained.

Green spaces have been categorised as follows in the settlement statements:

ENV1	Public Parks and Gardens
ENV2	Private Gardens and Grounds
ENV3	Amenity Greenspace
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

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

Green space with an identified sporting or recreational function (e.g. ENV5: Sports Areas) will also be assessed against CF2, in order to provide a further safeguard for the sporting/recreational function of these sites. The Council section responsible for Sports Development will be consulted as to whether a proposal needs to be assessed against Policy CF2 (i.e. whether the green space impacted has an identified sporting or recreational function).

The Council will prepare an Open Space Strategy to identify opportunities for improving and linking existing greenspace and to meet future demands for greenspace provision.

CONFORMS TO:

The policy conforms to SPP11: Open Space and Physical Activity, PAN65: Planning and Open Space.

POLICY CROSS-REFERENCE/ADDITIONAL GUIDANCE:

Policy CF2: Providing recreational land and open space;
Policy CF4: Golf Courses and Driving Ranges;
Policy H6: Development Within Rural Communities
Policy IMP1: Development Requirements
Policy IMP3: Developer Contributions;
Policy IMP4: Action Plan.

POLICY T2: PROVISION OF ROAD ACCESS

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

JUSTIFICATION:

It is important to ensure that new development is served by appropriate infrastructure. The road access arrangements should be suitable to the proposed development and ensure that there are adequate safety provisions and provision for public transport, cycling and pedestrians. Road access design should be carefully designed to fit in with the surrounding landscape and environment. Where the access to a site is unmade or a private track it may require to be surfaced to a suitable standard and require the provision of passing places or be widened accordingly.

CONFORMS TO:

The policy conforms to the Council's guidance on technical standards for the provision of roads infrastructure.

ADDITIONAL GUIDANCE

Policy IMP1: Development Requirements;
PAN76: New Residential Streets.

POLICY T3: ROADSIDE SERVICE STATIONS

The Council will approve applications for roadside service stations if there is a specific locational need; no adverse impact on the built and natural environment that cannot be satisfactorily mitigated; and where appropriate access, parking and safety standards can be met.

JUSTIFICATION:

Roadside service stations provide an important safety feature particularly for long distance travellers. They can also provide an input into the local economy. Therefore where environmental and access, parking and safety issues can be satisfactorily resolved there should be a positive approach to their provision.

CONFORMS TO:

The policy conforms to SPP17 Planning for Transport

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements.

POLICY T4: BUS, RAIL AND HARBOUR FACILITIES

The Council will promote the improvement of the bus, rail and harbour facilities within Moray. Development proposals that may compromise the viability of these facilities will not be acceptable.

JUSTIFICATION:

It is a Plan aim to optimise the contribution to transport that can be made by enhancing bus, rail and harbour facilities. Therefore, it is appropriate to safeguard existing railway and bus stations, railfreight facilities and harbours from development that may compromise their viability. Notwithstanding the above there are likely to be opportunities, particularly related to the area's commercial and leisure harbours, where more diversified development would be acceptable.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements, Policy IMP4: Action Plan.

POLICY T5: PARKING STANDARDS

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

JUSTIFICATION:

The application of parking standards related to development assists in the implementation of appropriate traffic management, and in the availability of on-street car parking provision. The standards specify where there is scope to provide commuted payments as an alternative to parking on site, as well as the need for parking for commercial vehicles.

CONFORMS TO:

The policy conforms to SPP17 on 'Transport and Planning: Maximum Car Parking Standards (2003)'.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

None.

POLICY T6: TRAFFIC MANAGEMENT

The road hierarchy will be used to assist the assessment of planning applications, in particular for the consideration of the appropriate road design and traffic management requirements. The road hierarchy will be used when considering appropriate traffic management options/schemes to optimise the performance of specific roads.

JUSTIFICATION:

A strategic road hierarchy (Trunk Road; Principal Local Roads; and Non-Principal Local Roads) already exists that enable efficient management of the road network within Moray. There are road hierarchy categories in the Road Guidelines for new developments. The road hierarchy categories will be reviewed and extended to cover roads within Elgin.

CONFORMS TO:

The policy conforms to guidance set out in SPP17 on 'Transport and Planning'.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP4: Action Plan.

POLICY E3: TREE PRESERVATION ORDERS AND CONTROLS ON TREES

The Council will serve Tree Preservation Orders (TPOs) 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.

The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced. An applicant will be required to survey and identify those trees to be protected within the development site. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions on certain developments especially in rural areas, the Council will specify the use of native species of trees and will prioritise the re-establishment and extension of hedgerows and/or shelterbelts.

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 woodland 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. The Council will prepare supplementary planning guidance in support of this policy, and this will be subject to consultation with Stakeholders prior to adoption.

CONFORMS TO:

The policy conforms to NPPG14 Natural Heritage, the Council's Environmental Charter, and Development in Woodlands Policy.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Trees and Development Supplementary Planning Guidance.

POLICY EP5: SURFACE WATER DRAINAGE: SUSTAINABLE URBAN DRAINAGE SYSTEMS (SUDS)

Surface water from development should be dealt with in a sustainable manner that avoids flooding and pollution and promotes habitat enhancement and amenity. All sites should be drained by a SUDS system or equivalent. A Drainage Assessment will be required for developments of 10 houses, or greater than 100 sq metres for non residential proposals. Applicants must agree provisions for long term maintenance to the satisfaction of the Council, SEPA and Scottish Water.

JUSTIFICATION:

The aim of the policy is to encourage the use of SUDS to deal with surface water run-off. SUDS must be implemented to the satisfaction of the regulatory authorities to ensure that they do not adversely impact on the wider environment.

SUDS also provide an opportunity to encourage the creation of new habitats for wildlife.

CONFORMS TO:

The policy conforms to PAN61 on Planning and Sustainable Urban Drainage Systems

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements; SUDS Design Manual for Scotland and Northern Ireland.

POLICY EP6: WATERBODIES

The Council will approve proposals affecting waterbodies where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on river hydrology, sediment transport and erosion, nature conservation, ecological status or ecological potential, fisheries, water quality, quantity and flow rate, recreational, landscape, amenity, and economic and social impact can be adequately mitigated. The report should consider potential impacts up and downstream of the works particularly in respect of potential flooding. Opportunities for the enhancement of biodiversity and nature conservation should be considered. SNH and SEPA will be consulted on proposals

JUSTIFICATION:

There are a number of works to watercourses and land drainage which fall outwith the General Permitted Development Order including fisheries management, erosion control or flood prevention which can have a significant impact on the management or ecology of watercourses.

The Water Environment and Water Services (Scotland) Act 2003 implements the EC Water Framework Directive (2000/60/EC) which aims to maintain and improve the quality of aquatic ecosystems and requires that any ecological risks associated with development in rivers, tidal and coastal waters be identified and controlled.

CONFORMS TO:

The policy conforms to the Spey Catchment Management Plan.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements; River Works on the Spey and its Tributaries – who to contact and how to proceed.

POLICY EP7: CONTROL OF DEVELOPMENT IN FLOOD RISK AREAS

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to be satisfactory to both SEPA and the Council is provided by the applicant. The assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. The following limitations on development will also be applied to take into account the degree of flooding as detailed in National Guidance;

- a) in areas of little or 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. However, these areas will generally not be suitable for essential civil infrastructure such as hospitals, fire stations, emergency depots etc. Where such infrastructure has to be located in these areas or is being substantially extended, they must be capable of remaining operational and accessible during extreme flooding events.
- c) in areas of medium to high risk (0.5% or above)
 - i) in built up areas most development may be acceptable if flood prevention measures exist, are under construction, or are planned.
 - ii) essential civil infrastructure will generally not be permitted.
 - iii) undeveloped and sparsely developed areas are generally not suitable for additional development. Exceptions may arise if a location is essential for operational reasons.

JUSTIFICATION:

The aim of the policy is to direct development away from areas at risk from flooding, and ensure that potential risk from flooding is adequately considered in terms of planning applications. Where impacts are identified they should be satisfactorily mitigated without passing on the problem elsewhere.

The policy specifies limitations on the type of development within potential flood risk areas and seeks to ensure that essential civic infrastructure is not placed at undue risk on the grounds of public safety. The source of information used to determine flood risk areas are the SEPA flood maps which are accessible on the SEPA website.

Wet woodlands can contribute positively to flood alleviation.

CONFORMS TO:

The policy conforms to SPP7 on Planning and Flooding.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements.

Policy IMP4: Action Plan.

Development proposals on potentially contaminated land will be approved if:

- a. site specific risk assessments are undertaken by the applicant to identify any actual or possible significant risk to human health or safety, or to the environment and that any previous historic uses are not continuing to cause significant pollution to the water environment, and
- b. effective remediation measures are agreed to ensure the site is made suitable for any new use granted consent, and
- c. appropriate measures for the disposal of any contaminated material is agreed with the Council.

The Council will consult SEPA in respect of pollution of controlled waters and licensing issues arising from remediation works.

JUSTIFICATION:

This policy aims to support proposals for new development on contaminated land, while ensuring that public health and safety is not compromised. Land is classed as contaminated because of the current or historical use of the site including sewage treatment plants, waste tips and engineering works. The safe removal of contaminated material, as well as the restoration and redevelopment of these sites is to be encouraged. Contamination is a material planning consideration. Contamination may also have migrated from nearby land uses and site investigations may become necessary even if the site has no previous contaminative use. The Council have a Contaminated Land Inspection Strategy and will provide information and guidance to developers on contaminated land issues.

CONFORMS TO:

This policy conforms to SPP2: Economic Development, PAN 33: Development of Contaminated Land, and Circular 1/2000.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements; Operational Guidance – "Contaminated Land within the Development Control Process".

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

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

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

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

JUSTIFICATION

This policy aims to achieve satisfactory disposal of sewage. The policy encourages new development to connect to the mains system wherever possible but recognises that in some settlements this will not be possible. The policy seeks to ensure that drainage systems can be designed to a standard which can be adopted by Scottish Water and which could be connected to a public system in the future.

CONFORMS TO:

This policy conforms to SPP10 Planning for Waste Management.
PAN79 Water and Drainage.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

None.

POLICY IMP3: DEVELOPER CONTRIBUTIONS

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

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

JUSTIFICATION:

It is reasonable to expect developers to contribute towards infrastructure or facilities that emanate from the development. Sometimes, it is acceptable for both the developer and the Council if the appropriate contribution is made by way of a commuted payment thereby allowing the development to proceed.

Guidance on the use of Planning Agreements to secure developer contributions is contained in Circular 12/96. Any agreement should

- Serve a planning purpose
- Demonstrate a relationship to the proposed development
- Be related in scale and kind to the development
- And be reasonable.

CONFORMS TO:

The policy conforms to Circular 12/1996 on Planning Agreements.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

None.

Appendix 6

Scottish Planning Policy - Extracts

INTRODUCTION

1. The Scottish Government's planning policies are set out in the National Planning Framework, this SPP, Designing Places, Designing Streets¹ and Circulars². This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and
 - the Scottish Government's expectations of the intended outcomes of the planning system.
2. This approach places planning in the wider context of Scottish Government aims and policies and clarifies the Government's expectations of the system and planning services. It is a brief statement of policy and does not attempt to provide a comprehensive summary or explanation of the planning system in Scotland or to describe the full and diverse range of objectives to which planning may contribute. This SPP does not restate policy and guidance expressed elsewhere. The wider policy framework including the National Planning Framework, Designing Places, Designing Streets and Circulars, should be taken into account in decision making. Policy linked to direct legislative requirements is expressed in terms of what must be done. Policy linked to Scottish Ministers' requirements for an efficient and effective planning system is expressed in terms of what should be done. The policies expressed in this SPP should inform the content of development plans, should be a consideration in decisions on planning applications and should be used to inform development proposals from initial concept to implementation.

THE PURPOSE OF PLANNING

3. Planning guides the future development and use of land. Planning is about where development should happen, where it should not and how it interacts with its surroundings. This involves promoting and facilitating development while protecting and enhancing the natural and built environment in which we live, work and spend our leisure time. Careful attention to layout, design and construction should result in places where people want to be.
4. The Scottish Government believes that a properly functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth. The way in which the planning system is structured and operated should be directed towards that purpose and to supporting the Scottish Government's five strategic objectives and fifteen national outcomes³.
5. The Government believes strongly in the value of forward-looking, visionary and ambitious plans that will guide development. These plans provide guidance to potential developers and investors; provide various interests with the opportunity to participate in shaping the future of their nation and their communities; and give public authorities a structure within which decisions can be made with confidence. Development plans should lead and guide change. The statutory requirement to keep development plans up to date⁴ will ensure that they reflect and respond to emerging pressures and issues.

¹ Due for publication in early 2010

² All documents are available at www.scotland.gov.uk/Topics/Built-Environment/planning

³ For more information about the Scottish Government's central purpose, strategic objectives and national outcomes see www.scotland.gov.uk/About/scotPerforms

⁴ Planning etc. (Scotland) Act 2006 Sections 10(8) and 16(1)

Location and Design of New Development

77. Planning authorities should set out a settlement strategy in the development plan to provide a long term context for development. Key considerations in a settlement strategy are:
 - the efficient use of existing buildings, land and infrastructure,
 - accessibility of homes, services, open space and employment opportunities by a range of transport options,
 - co-ordination of housing land release with investment in infrastructure including transport and educational investment, and with other major proposals,
 - the deliverability of the strategy, and
 - the protection and enhancement of landscape, natural, built and cultural heritage, biodiversity and the wider environment, including consideration of flood risk.
78. The Scottish Government's objectives of creating successful places and achieving quality residential environments should guide the whole process of delivering new housing. The type of development that can be achieved should be considered when sites are being selected. The siting and design of new housing should take account of its setting, the surrounding landscape, topography, character, appearance, ecologies and the scope for using local materials. The aim should be to create places with a distinct character and identity, promoting a well integrated mix of land uses including well designed homes of different types and tenures. Development plans should encourage and enable the creation of successful places which contribute to the identity of the area. Further policy and advice on design is provided in *Designing Places*, *Designing Streets* and PAN 67 *Housing Quality*.
79. New housing developments should be integrated with public transport and active travel networks, such as footpaths and cycle routes, rather than encouraging dependence on the car. New streets should connect well with existing streets and with walking and cycling networks, and allow for links into future areas of development.
80. Planning authorities should promote the efficient use of land and buildings, directing development towards sites within existing settlements where possible to make effective use of existing infrastructure and service capacity and to reduce energy consumption. Redevelopment of urban and rural brownfield sites is preferred to development on greenfield sites. When identifying locations for housing, planning authorities and developers should consider the reuse of previously developed land before development on greenfield sites and should take account of the following factors:
 - the potential contribution to the strategy and policies of the development plan and other national and local policy objectives,
 - the relative accessibility of sites by a choice of transport options,
 - the availability of infrastructure, including waste management infrastructure, and education and community facilities,
 - whether development can be achieved within the required time frame,
 - the provision of choice across the housing market area,
 - the design, quality and density of development that can be achieved, and
 - the individual and cumulative effects of the proposed development.
81. Urban capacity studies assess opportunities for further housing development within existing settlements, focusing on previously developed land and conversion of existing buildings, and reviewing land currently allocated for uses other than housing. Planning authorities are encouraged to use urban capacity studies, along with assumptions about the expected output from windfall sites, to inform the settlement strategy. Where possible, planning authorities should involve the private sector in urban capacity studies. The results of the study should be publicly available.

82. Infill sites within existing settlements can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.
83. The density of new development should be determined in relation to the character of the place and its relative accessibility, with higher densities appropriate at central and accessible locations. Through good design it is possible to achieve higher density living environments without overcrowding or loss of amenity.
84. The majority of housing land requirements will be met within or adjacent to existing settlements and this approach will help to minimise servicing costs and sustain local schools, shops and services. Authorities should also set out the circumstances in which new housing outwith settlements may be appropriate, particularly in rural areas. Development plans should promote the development of rural communities and aim to support and sustain fragile and dispersed communities through appropriate housing development. In areas where there is a large demand for holiday or second homes, planning authorities should respond to this demand through the housing land allocation. Policy on housing in rural areas is also covered in the rural development section of this SPP.
85. Meeting housing land requirements by extending existing settlements can reduce servicing costs and help to sustain local schools, shops and services. A new settlement may be appropriate if it is justified by the scale and nature of the housing land requirement, and:
- there are physical, environmental or infrastructural constraints to the further growth of existing settlements,
 - it is part of a strategy for promoting rural development and regeneration,
 - it could assist in reducing development pressure on other greenfield land,
 - it can be readily serviced by public transport,
 - it will not have a significant adverse effect on any natural or built heritage interest safeguarded by a national or international designation, and
 - it will not result in other significant environmental disbenefits, for example promoting development in areas of high flood risk.

Where a planning authority considers a new settlement to be a necessary part of its settlement strategy, the development plan should specify its scale and location. Supplementary guidance can address more detailed issues such as design and delivery.

Affordable Housing

86. Affordable housing is defined broadly as housing of a reasonable quality that is affordable to people on modest incomes. In some places the market may be able to meet most affordable housing needs but this will not be the case everywhere. Affordable housing may be in the form of social rented accommodation, mid-market rented accommodation, shared ownership, shared equity, discounted low cost housing for sale including plots for self build, and low-cost housing without subsidy. Where the housing need and demand assessment and local housing strategy identify a shortage of affordable housing, it should be addressed in the development plan as part of the housing land allocation. As with market led housing the need for affordable housing should be met, where possible, within the housing market area where it has arisen. Planning authorities may allocate sites specifically for affordable housing to meet requirements identified in the housing need and demand assessment and local housing strategy. This approach is most likely to be appropriate for small-scale sites within or adjoining existing settlements to provide for locally arising needs.